

suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on August 21, 1991: Yeas 74, Nays 65, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 1 on August 25, 1991: Yeas 74, Nays 60, 1 present, not voting; passed by the Senate, with amendments, on August 25, 1991: Yeas 18, Nays 13.

Approved August 29, 1991.

Effective November 24, 1991.

CHAPTER 8'

H.B. No. 39

AN ACT

relating to the continuation, functions, and change of the name of the State Purchasing and General Services Commission and state acquisition of property and services; providing penalties; making an appropriation.

Be it enacted by the Legislature of the State of Texas:

PART 1. ADMINISTRATION OF GENERAL SERVICES COMMISSION

SECTION 1.01. Section 1.02(1), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Commission" means the ~~[State Purchasing and]~~ General Services Commission.

SECTION 1.02. Section 2.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.01. COMMISSION. The ~~[State Purchasing and]~~ General Services Commission is *an agency of the state* ~~[established]~~.

SECTION 1.03. Section 2.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.02. MEMBERSHIP. The commission is composed of *six* ~~[three]~~ members appointed by the governor with the advice and consent of the senate. *All members must be representatives of the general public. Appointments to the commission shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees. In making appointments under this section, the governor shall attempt to appoint members of different minority groups, including females, African-Americans, Hispanic-Americans, Native Americans, and Asian-Americans. A person is not eligible for appointment if the person or the person's spouse:*

(1) is employed by or participates in the management of a business entity or other organization that contracts with the commission;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that contracts with the state; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

SECTION 1.04. Section 2.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.03. TERMS. Members of the commission hold office for staggered terms of six years, with *two members' terms* ~~[a member's term]~~ expiring on January 31 of each odd-numbered year.

SECTION 1.05. Section 2.04, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) *Four [Two] members of the commission constitute a quorum.*

(d) *The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.*

SECTION 1.06. Article 2, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 2.051 to read as follows:

Sec. 2.051. REMOVAL OF COMMISSION MEMBERS. (a) *It is a ground for removal from the commission if a member:*

(1) violates a prohibition established by Section 2.061 of this Act;

(2) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(3) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) *The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.*

(c) *If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the commission of the ground. The chairman shall then notify the governor that a potential ground for removal exists.*

SECTION 1.07. Section 2.06, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Subsections (e) through (k) to read as follows:

(e) *The commission shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.*

(f) *The commission shall develop and implement policies that clearly define the respective responsibilities of the commission and the staff of the commission.*

(g) *The executive director or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.*

(h) *The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for commission employees must be based on the system established under this subsection.*

(i) *The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:*

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the commission work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the commission work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to address appropriately those areas of significant underutilization.

(j) *A policy statement prepared under Subsection (i) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.*

(k) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (j) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 1.08. Article 2, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 2.061 to read as follows:

Sec. 2.061. CONFLICT OF INTEREST. (a) An officer, employee, or paid consultant of a Texas trade association of business entities that contracts with the state may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association of business entities that contracts with the state may not be a commission member and may not be a commission employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) For the purposes of this section, a trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(d) A person may not be a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission or a business entity that contracts with the state.

SECTION 1.09. Section 2.07, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.07. APPLICATION OF SUNSET ACT. The commission is subject to [the Texas Sunset Act—]Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter [Act], the commission is abolished and this Act expires September 1, 1993 [1991].

SECTION 1.10. Section 2.08, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.08. REPORTS [REPORT]. (a) Not later than the 30th day after the date on which each regular session of the legislature begins, the commission shall report to the legislature concerning the activities of the commission during the preceding legislative interim and shall recommend any amendments to current law that would result in an increase in efficiency, economy, or productivity in the areas monitored by the commission.

(b) The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

SECTION 1.11. Article 2, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 2.10 to read as follows:

Sec. 2.10. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints are filed with and resolved by the commission. The commission by rule shall establish methods by which consumers, service recipients, and persons contracting with the state under authority of this Act are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission shall make the information available to the public and appropriate state agencies.

(b) The commission shall keep an information file about each complaint filed with the commission that the commission has authority to resolve. If a written complaint is filed with the commission that the commission has authority to resolve, the commission, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The commission shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the commission's programs.

PART 2. COMMISSION FUNCTIONS UNDER THE STATE PURCHASING AND GENERAL SERVICES ACT

SECTION 2.01. Section 3.01(c), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) "Services," as used in this article, means the furnishing of skilled or unskilled labor or professional work but does not include:

- (1) professional services covered by the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes);
- (2) services of an employee of a state agency;
- (3) consulting services or services of a private consultant as defined by Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes); or
- (4) services of public utilities.

SECTION 2.02. Section 3.022(f), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The commission shall make a written award of a purchase or lease to the offeror whose proposal is the most advantageous to the state, considering price and the evaluation factors in the request for proposals, except that if the commission finds that none of the offers is acceptable, it shall refuse all offers. *In determining which proposal is most advantageous to the state, the commission shall consider factors such as installation costs, the overall life of the system or equipment, the cost of acquisition, operation, and maintenance of hardware included with, associated with, or required for the system or equipment during the state's ownership or lease, the cost of acquisition, operation, and maintenance of software included with, associated with, or required for the system or equipment during the state's ownership or lease, the estimated cost of supplies, the estimated costs of employee training, the estimated cost of additional long-term staff needed, and the estimated increase in employee productivity.* ~~[The commission may not use any other factors or criteria in its evaluation.]~~ The contract file must state in writing the basis on which the award is made.

SECTION 2.03. Sections 3.08(a), (c), (e), and (f), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) State agencies are delegated the authority to purchase supplies, materials, and equipment if the purchase does not exceed \$5,000, *although an agency may continue to use the commission's services for those purchases [\$500].* The commission by rule shall prescribe procedures for these purchases, and by rule may delegate to state agencies the authority to purchase supplies, materials, or equipment if the purchase exceeds \$5,000 *[\$500].*

(c) Competitive bidding, whether formal or informal, is not required for a purchase by a state agency if the purchase does not exceed \$1,000 *[\$100]*, or a greater amount prescribed by rule of the commission.

(e) Large purchases may not be divided into small lot purchases in order to meet the specified dollar limits. *The commission may not require that unrelated purchases be combined into one purchase order in order to exceed the specified dollar limits.*

(f) Agencies making purchases under this section *for which competitive bidding is required* must attempt to obtain at least three competitive bids from sources which normally offer for sale the merchandise being purchased *and must comply with Section 3.101 of this article.*

SECTION 2.04. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.012 to read as follows:

Sec. 3.012. PRIORITIES. The commission to the extent possible shall focus its efforts under this article on purchases and contracts that involve relatively large amounts of money.

SECTION 2.05. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.101 to read as follows:

Sec. 3.101. BIDDERS LISTS. (a) This section:

(1) applies to all purchases under this article for which competitive bidding or competitive sealed proposals are required;

(2) applies to all state agencies that make purchases under this article, including the commission and agencies that make purchases under Section 3.06 of this article; and

(3) does not apply to purchases made by the commission under Section 3.11 of this article.

(b) The commission shall develop a uniform registration form for application to do business with the commission or with any state agency. The registration forms shall constitute a valid application for a bidders list by all state agencies. Nothing in this subsection shall be construed as preventing any state agency from developing and using its own registration form, but such forms shall not be required in addition to or in lieu of the uniform registration form developed by the commission.

(c) Each state agency shall maintain a bidders list and annually register on the list the name and address of each vendor that applies for registration in accordance with rules adopted under this section. An agency may include other relevant vendor information on the list. Each agency shall solicit bids or proposals from all eligible vendors on the list, as provided by this section, when the agency proposes to make a purchase that will cost more than \$5,000.

(d) A state agency may charge applicants for registration a fee and may charge registrants an annual renewal fee in an amount designed to recover the agency's costs in developing and maintaining its bidders list and in soliciting bids or proposals under this section. An agency shall set the amount of the fees by rule.

(e) Each state agency shall adopt procedures for developing and maintaining its bidders list and procedures for removing inactive vendors from the list.

(f) Each state agency shall establish by rule a vendor classification process under which only vendors that may be able to make a bid or proposal on a particular purchase are solicited under this section.

(g) The commission may establish by rule a process under which the requirement for soliciting bids or proposals from eligible vendors on the bidders list may be waived for appropriate state agencies or appropriate purchases in circumstances in which the requirement is not warranted. The commission also may assist state agencies regarding issues that arise under this section.

SECTION 2.06. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.102 to read as follows:

Sec. 3.102. CERTAIN BIDS AND CONTRACTS PROHIBITED. A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in the preparation of the specifications or request for proposals on which the bid or contract is based. A bidder or contract participant may provide free technical assistance to an agency under this section.

SECTION 2.07. Section 3.11(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Bidders List. The commission shall maintain a bidders list and shall add or delete names from the list by the application and utilization of applicable standards set forth in Subsection (e) of this section. Bid invitations shall be sent only to those who have expressed a desire to bid on the particular types of items which are the subject of the bid invitation. Use of the bidders list shall not be confined to contract purchases but it may be used by the commission ~~[as it may find desirable]~~ in making any purchase.

SECTION 2.08. Section 3.17, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.17. SPECIFICATIONS AND STANDARDS PROGRAM; TEST AND INSPECTION PROGRAM. (a) The commission shall have the authority to establish and maintain a specifications and standards program to coordinate the establishment and maintenance of uniform standards and specifications for materials, supplies, and equipment purchased by the commission. The commission shall enlist the cooperation of other state agencies in the establishment, maintenance, and revision of uniform standards and specifications and shall encourage and foster the use of standard specifications in order that the most efficient purchase of materials, supplies, and equipment may be continuously accomplished.

(b) *As part of the standards and specifications program, the commission shall review existing contracts for recycling waste produced at state buildings. The commission shall review existing contracts and procedures to ensure that all services meet contract specifications.*

(c) The commission shall ~~[may also]~~ establish and maintain a program of testing and inspecting to ensure that materials, supplies, services, and equipment meet specifications, and may make contracts for testing. If any state agency determines that any supplies, materials, services, or equipment received do not meet specifications, it shall promptly notify the commission in writing detailing the reasons why the supplies, materials, services, or equipment do not meet the specifications of the contract. The commission shall immediately determine whether or not the reported supplies, materials, services, or equipment meet specifications. The sole power to determine whether materials, supplies, services, and equipment meet specifications shall rest with the commission. *The commission shall provide for the inspecting and testing of all costly purchases and may adopt rules necessary to carry out this duty.* When the commission finds that contract specifications or conditions have not been complied with, it shall take action, with the assistance of the attorney general, if necessary, against the defaulting contractor. *If the commission receives repeated complaints regarding a vendor, the commission shall remove the vendor's name from the commission's bidder's list for a period not to exceed one year.*

SECTION 2.09. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.181 to read as follows:

Sec. 3.181. STATEWIDE OR REGIONAL SERVICES CONTRACTS; COMMISSION STUDIES. (a) *The commission annually shall select for study at least one service that is purchased by one or more state agencies. The commission shall study a selected service to determine whether the state would benefit if the service were provided to appropriate state agencies under a regional or statewide contract. The commission shall give priority to studying services for which the commission has delegated the purchasing function to many state agencies.*

(b) *The commission is not required to enter into a statewide or regional contract for the provision of a service to state agencies if more than five bidders are willing to provide the service to the state under a statewide or regional contract.*

SECTION 2.10. Section 3.23, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.23. CONTRACTS WITH DEPARTMENT OF CRIMINAL JUSTICE ~~[CORRECTIONS]~~. The commission is ~~[hereby]~~ authorized to make contracts with the Texas

Department of *Criminal Justice* [~~Corrections~~] for the purchase of supplies, equipment, services, and materials for use by other state agencies.

SECTION 2.11. Section 3.29, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and by adding Subsections (g) and (h) to read as follows:

(a) A state agency may not purchase or lease a vehicle designed or used primarily for the transportation of persons, including a station wagon, that has a wheel base longer than 113 inches or that has more than 160 [145] SAE *net* horsepower. This provision does not apply to the purchase or lease of a vehicle to be used primarily for criminal law enforcement or a bus, motorcycle, pickup, van, truck, three-wheel vehicle, tractor, or ambulance.

(g) *In this section, a vehicle is considered to be capable of using compressed natural gas or other alternative fuels if the vehicle is capable of using compressed natural gas or other alternative fuels either in its original equipment engine or in an engine that has been converted to use compressed natural gas or other alternative fuels after September 1, 1991, unless the time for compliance is extended pursuant to Subsection (h) of this section.*

(h) *The commission may extend the date by which a vehicle powered by a traditional gasoline or diesel engine shall be capable of using compressed natural gas or other alternative fuels as required under this section for one or more periods of 90 days, but not beyond September 1, 1992, if it finds a lack of ability to acquire such vehicles with original alternative fuels equipment, to acquire such vehicles which are able to be converted, or to convert such vehicles to use compressed natural gas or other alternative fuels.*

SECTION 2.12. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.32 to read as follows:

Sec. 3.32. SAFETY STANDARDS FOR ELECTRICAL ITEMS. *The commission or another state agency may not purchase an electrical item unless the item meets applicable safety standards of the federal Occupational Safety and Health Administration (OSHA).*

SECTION 2.13. Section 4.12(g), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(g)(1) *As of the effective date of this Act, all of the duties, functions, positions, responsibilities, inventory, property, and other items assigned to the Capitol Security Police Division of the State Purchasing and General Services Commission are transferred to the Texas Department of Public Safety.*

(2) *All employees of the Capitol Security Police Division of the State Purchasing and General Services Commission are eligible to apply for and may be employed by the Department of Public Safety. Such persons must meet all Texas Department of Public Safety requirements for employment appropriate to civilian and mansion security officers.*

(3) *All such persons employed by the Texas Department of Public Safety shall be entitled to have all service with the State Purchasing and General Services Commission recognized for purposes of establishing length of service and accrual of and entitlement to benefits. Such service with the State Purchasing and General Services Commission shall be aggregated with service as employees of the Texas Department of Public Safety. Provided, however, all such persons employed by the Texas Department of Public Safety shall be subject to a six-month probationary period, as provided in Section 411.007, Government Code.*

(4) *All such persons employed by the Texas Department of Public Safety shall be assigned to a rank or position consistent with their duties and responsibilities at the sole discretion of the Texas Department of Public Safety. The salary for such rank or position shall be consistent with the Texas Department of Public Safety rules and regulations and applicable state laws.*

(5) *The State Purchasing and General Services Commission shall provide office space for this operational unit to the Texas Department of Public Safety in the American Legion Building or other suitable facility acceptable to the Texas Department of Public Safety.*

(6) *All funds appropriated to the State Purchasing and General Services Commission for purposes of operating the Capitol Security Police Division are transferred to the Texas Department of Public Safety to be used for the operation of the unit. [The commission is authorized to employ security officers for the purpose of carrying out the provisions of this section and may commission such security officers as it deems necessary as peace officers. When so commissioned, said officers are hereby vested with all the powers, privileges, and immunities of peace officers; provided, that each security officer shall take and file the oath required of peace officers and shall execute and file with the commission a good and sufficient bond in the sum of \$1,000 payable to the governor of this state and his successors in office with two or more good and sufficient sureties conditioned that he will fairly and faithfully perform all of the duties as may be required of him by law, and that he will fairly and impartially enforce the law of this state and that he will pay over any and all money, or turn over any and all property, to the proper person legally entitled to the same, that may come into his possession by virtue of such office. Said bond shall not be void for the first recovery but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered. It shall be unlawful and constitute a misdemeanor punishable as provided in this section for any person or persons to impersonate any of said officers.]*

SECTION 2.14. Subsection (l), Section 4.15, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as added by Section 1, Chapter 1244, Acts of the 71st Legislature, Regular Session, 1989, is redesignated as Subsection (m) to read as follows:

(m) [(l)] If the commission determines under Section 5.34 of this Act that the purchase of an existing building is more advantageous to the state than the construction of a new building but a purchase of the building would be subject to existing leases that exceed 15 percent of the total space in the building, the commission may purchase the building subject to existing leases notwithstanding Subsection (c) of this section. When an existing lease expires, the commission may renew the lease subject to this section, including Subsection (c).

SECTION 2.15. Section 5.01A(a), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In acquiring real property, each using agency of the state, other than those specifically excluded by Sections 5.13 and 5.14 of this article, shall give first consideration to a building that is a historic structure under Section 442.001, *Government Code* [8, Chapter 500, Acts of the 55th Legislature, Regular Session, 1957 as amended (Article 6145, Vernon's Texas Civil Statutes)], or to a building that has been designated a landmark by the local governing authority, if the building meets requirements and specifications and the cost is not substantially higher than other available structures that meet requirements and specifications.

SECTION 2.16. Section 5.12, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5.12. DEFINITIONS. The following terms whenever used or referred to in this article shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(1) "Using agency" means any instrumentality of the state which shall occupy and make use of a state-owned or state-leased building, and for the purpose of this article the commission shall be considered as the using agency for [the state capitol, the governor's mansion and for all other] state-owned buildings maintained by the commission.

(2) ["Commission" means the State Purchasing and General Services Commission.

[(9)] "Project" means any building construction project, other than those specifically excluded by Sections 5.13 and 5.14 of this article, which shall be financed in whole or in part by specific appropriation, bond issue or federal funds. The term "project" shall include the construction of any building or any structure or any facility or utility appurtenant thereto, including original equipment and original furnishings thereof, and of any addition to, alteration, rehabilitation, or repair of any existing building or any structure, or any facility or utility appurtenant thereto.

(3) [(4)] "Project analysis" refers to work done prior to legislative appropriation for a project for the purpose of developing a reliable estimate of the cost of a project to be requested of the legislature.

(4) [(5)] "Cost of a project" includes, but shall not be limited to, the cost of all real estate, properties, rights and easements acquired, utility services, site development, the cost of construction and the initial furnishing and equipment thereof, all architectural and engineering and legal expenses, the cost of surveys and plans and specifications, and such other expenses, including those incurred by the commission, as are necessary or incident to determining the feasibility or practicability of any project.

(5) [(6)] "Construction" means and includes acquisition, construction, and reconstruction.

(6) [(7)] "Rehabilitation" means and includes renewal, restoration, extension, enlargement, and improvement.

(7) [(8)] "Equipment" and "furnishings" mean and include any equipment and furnishings whatsoever as may be necessary and required for the use of a project.

(8) [(9)] "Architect/engineer" means a person registered as an architect pursuant to Chapter 478, Acts of the 45th Legislature, Regular Session, 1937, as amended (compiled as Article 249a of Vernon's Texas Civil Statutes), and/or a person registered as a professional engineer pursuant to Chapter 404, Acts of the 45th Legislature, Regular Session, 1937, as amended (compiled as Article 3271a of Vernon's Texas Civil Statutes), employed to provide professional architectural or engineering services and having overall responsibility for the design of a project. The term "architect/engineer" standing by itself may, unless the context clearly indicates otherwise, mean either an architect/engineer employed by the commission on a salary basis or an architect/engineer in private practice retained for a specific project under a contractual agreement with the commission. The term "private architect/engineer" shall specifically and exclusively refer to a registered architect or a registered engineer in private practice retained for a specific project under a contractual agreement with the commission.

(9) [(10)] "Stage construction" means the construction of a project in phases, each phase resulting in one or more buildings or structures which individually or together shall be capable of use regardless of whether subsequent phases of the project are authorized or not.

SECTION 2.17. Section 5.13(d), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Sections 5.16, 5.17, 5.21, and 5.25 of this article apply to construction projects undertaken by *or for the institutional division of the Texas Department of Criminal Justice* [Corrections]. No other provisions of this article apply to construction projects undertaken by *or for the institutional division of the Texas Department of Criminal Justice* [Corrections].

SECTION 2.18. Section 5.16(c), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by Section 4 of Chapter 362 and Section 4 of Chapter 571, Acts of the 68th Legislature, Regular Session, 1983, is amended to read as follows:

(c) A project analysis shall consist of (1) a complete description of the facility or project together with a justification of such facility or project prepared by the using agency, (2) a detailed estimate of the amount of space needed to meet the needs of the using agency and to allow for realistic future growth, (3) a description of the proposed facility prepared by an architect/engineer and including schematic plans and outline specifications describing the type of construction and probable materials to be used, sufficient to establish the

general scope and quality of construction, (4) an estimate of the probable cost of construction, (5) a description of the proposed site of the project and an estimate of the cost of site preparation, ~~[and]~~ (6) an overall estimate of the cost of the project, (7) the information about historic structures considered instead of new construction that was prepared as required by Section 5.01A of this article, and (8) other information as required by the commission. A project analysis may include two or more alternative proposals for meeting the space needs of the using agency by (1) new construction, (2) acquisition and rehabilitation of an existing or historic structure, or (3) a combination of the above. If any part of the project involves the construction or rehabilitation of a building that is to be used primarily as a parking garage or for office space for the state government, the project analysis also shall include a description of the amount and location of space in the building that can be made available for lease, under Section 4.15 of this Act, to private tenants or shall include a statement of the reason that the lease of space in the building to private tenants is not feasible. All estimates involved in the preparation of a project analysis shall be carefully and fully documented and incorporated into the project analysis.

Throughout the preparation of the project analysis, the commission and any private architect/engineer employed by the commission shall work closely and cooperatively with the using agency to the end that the project analysis shall fully reflect the needs of the using agency.

The using agency shall use the cost of the project as determined by such project analysis as the basis of its request to the budget offices of this state.

SECTION 2.19. Section 5.18(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) If the expenditures for fine arts are authorized and appropriated by the legislature, the commission shall consult and cooperate with the Texas Commission on the Arts ~~[and Humanities]~~ for advice in determining how to utilize the portion of the appropriation to be used for fine arts projects.

SECTION 2.20. Sections 5.19(b) and (c), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) The agency or the governing body of a political subdivision may consult and cooperate with the Texas Commission on the Arts ~~[and Humanities]~~ for advice in determining how to utilize the portion of the cost set aside for fine arts purposes.

(c) The Texas Commission on the Arts ~~[and Humanities]~~ shall place emphasis on works by living Texas artists whenever feasible, and when consulting with the governing body of a political subdivision, shall place emphasis on works by artists who reside in or near the political subdivision. Consideration shall be given to artists of all ethnic origins.

SECTION 2.21. Section 5.20(c), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Following final approval of the working plans and specifications and their acceptance by the using agency, the commission shall cause to be advertised in not less than two newspapers of general circulation for bids or proposals for performance of the construction and related work on the project. *The commission shall allow bidders at least 30 days after the date that the commission issues the bid documents to respond to an invitation to bid, but the commission may shorten the period to prevent undue additional costs to a state agency or for emergency projects to prevent or remove a hazard to life or property.* Subject to the applicable provisions of other law respecting the award of state contracts, the contract or contracts shall be awarded to the qualified bidder making the lowest and best bid; but no contract shall be awarded for a sum in excess of the amount which the comptroller shall certify to be available for such project. The commission shall have the right to reject any and all bids.

SECTION 2.22. Section 5.22, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Responsibility for the selection of a private architect/engineer employed for any project covered by the provisions of this article shall be vested in the commission. *The*

commission shall adopt rules that state the criteria the commission uses to evaluate the competence and qualifications of private architects/engineers. The commission shall develop the rules in consultation with the Texas Board of Architectural Examiners and the State Board of Registration for Professional Engineers. The commission shall allow each private architect/engineer selected for an interview at least 30 days after the date the commission notifies the architect/engineer to prepare for the interview.

(c) In recognition of the close working relationship which must exist between the architect/engineer and the using agency, the commission shall request the using agency to make recommendations regarding private architects/engineers and shall consider any such recommendation in making its selection of a private architect/engineer to be employed for a particular project. The commission shall make its selection in accordance with the *rules adopted under Subsection (b) of this section* [~~generally accepted standards for such selection~~] and [~~in conformity with~~] the ethical standards of the professional societies of such architects/engineers.

SECTION 2.23. Section 5.26(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The commission shall cause the uniform general conditions of state building construction contracts to be reviewed whenever in its opinion such review is desirable, but in no event less frequently than once every five years. The review shall be made by a committee appointed by the commission consisting of the director of facilities construction and space management, who shall serve ex officio as chairman of the committee and who shall vote only in the event of a tie; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Architects; two persons appointed by the commission from a list of nominees submitted to it by the President of the Texas Society of Professional Engineers; [~~and~~] two persons appointed by the commission from a list of nominees submitted to it by the Chairman of the Executive Council of the Texas Associated General Contractors Chapters; and two persons appointed by the commission from the list of nominees submitted to it by the Executive Secretary of the Mechanical Contractors Associations of Texas, Incorporated. Members of any review committee appointed pursuant to this subsection shall serve without compensation but may be reimbursed for their necessary and actual expenses.

SECTION 2.24. Section 5.35(a), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The commission shall prepare a long-range plan regarding the needs of state agencies in Travis County which obtain or occupy space under provisions of *this [the State Purchasing and General Services] Act* [~~(Article 601b, Vernon's Texas Civil Statutes)~~].

SECTION 2.25. Section 6.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6.01. **DEFINITION [DEFINITIONS].** In this article, "space" means office space, warehouse space, laboratory space, storage space exceeding 1,000 gross square feet, or any combination thereof, but does not include aircraft hangar space, radio antenna space, boat storage space, vehicle parking space, *residential space for a Texas Department of Mental Health and Mental Retardation program*, or space to be utilized for less than one month for meetings, conferences, seminars, conventions, displays, examinations, auctions, or other similar purposes.

SECTION 2.26. Section 6.05(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by Section 3 of Chapter 779 and Section 5 of Chapter 1244, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(b) The space may be leased from another state agency through an interagency contract, or from the federal government [~~a commercial building which is 100 percent owned, either directly or indirectly, by a statewide Texas public retirement system~~] or a political subdivision, including a county, a municipality, a school district, a water or irrigation district, a hospital district, a council of government, or a regional planning

council, ~~[or from a statewide Texas public retirement system in a commercial building that is 100 percent directly or indirectly owned by the retirement system,]~~ through a negotiated contract. *The space may also be leased, through a negotiated contract, from a statewide Texas public retirement system in a commercial building that is 100 percent directly or indirectly owned by the retirement system.*

SECTION 2.27. Section 6.05(j), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(j) In leasing space for the use of state agencies, the commission shall give first consideration to a building that is a historic structure under Section 442.001, *Government Code* [8, Chapter 500, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 6145, Vernon's Texas Civil Statutes)], or to a building that has been designated a landmark by the local governing authority, if the building meets requirements and specifications and the cost is not substantially higher than other available structures that meet requirements and specifications. Upon consideration of the leasing of space for the use of a state agency, the commission shall notify all individuals and organizations that are within the county where the leasing is under consideration and that are on a list furnished to the commission by the Texas Historical Commission as required by Section 442.005, *Government Code* [8C of Chapter 500, Acts of the 55th Legislature, Regular Session, 1957 (Article 6145, Vernon's Texas Civil Statutes)]. At the end of a biennium, the commission shall report to the legislature the commission's reasons for rejecting during the biennium the lease of any historic structure whose owner bid to lease space to the state.

SECTION 2.28. Section 6.06, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6.06. **ELIMINATION OF BARRIERS TO HANDICAPPED PERSONS IN STATE BUILDINGS.** The commission may not enter a lease contract under this article unless it complies with the provisions of Article 9102, *Revised Statutes* [7 of this Act].

SECTION 2.29. Section 6.111, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6.111. **DELEGATION OF AUTHORITY TO INSTITUTIONS OF HIGHER EDUCATION.** The commission may delegate to an institution of higher education the authority to enter into space lease contracts financed from sources other than funds appropriated from general revenue, provided that an institution of higher education may not enter a lease contract under this section unless it complies with the provisions of Article 9102, *Revised Statutes* [7 of this Act] concerning architectural barriers.

SECTION 2.30. Chapter 403, *Government Code*, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. PROPERTY ACCOUNTING

Sec. 403.271. **PROPERTY ACCOUNTING SYSTEM.** (a) *This subchapter applies to all personal property belonging to the state.*

(b) *The comptroller shall administer the property accounting system and maintain centralized records based on information supplied by state agencies and the uniform statewide accounting system. The comptroller shall adopt necessary rules for the implementation of the property accounting system, including setting the dollar value amount for capital assets and authorizing exemptions from reporting.*

(c) *The property accounting system shall constitute, to the extent possible, the fixed asset component of the uniform statewide accounting system.*

(d) *The comptroller may authorize a state agency to keep property accounting records at the agency's principal office if the agency maintains complete, accurate, and detailed records. When the comptroller makes such a finding, it shall keep summary records of the property held by that agency. The agency shall maintain detailed records in the manner prescribed by the comptroller and shall furnish reports at the time and in the form directed by the comptroller.*

(e) A state agency shall mark and identify state property in its possession. The agency shall follow the rules issued by the comptroller in marking state property.

Sec. 403.272. RESPONSIBILITY FOR PROPERTY ACCOUNTING. (a) A state agency must comply with this subchapter and maintain the property records required.

(b) All personal property owned by the state shall be accounted for by the agency that possesses the property. The comptroller shall define personal property by rule for the purposes of this subchapter. In adopting rules, the comptroller shall consider the value of the property, its expected useful life, and the cost of recordkeeping. The comptroller shall consult with the state auditor in drafting rules. The state auditor shall cooperate with the comptroller by giving technical assistance and advice.

Sec. 403.273. PROPERTY MANAGER; PROPERTY INVENTORY. (a) The head of each state agency is responsible for the custody and care of state property in the agency's possession.

(b) The head of each state agency shall designate a property manager and inform the comptroller of the designation. Subject to comptroller approval, more than one property manager may be appointed by the agency head.

(c) The property manager shall maintain the records required and be the custodian of all property possessed by the agency.

(d) State property may be used only for state purposes.

(e) When an agency's property is entrusted to a person other than the property manager, the property manager shall require a written receipt from the person receiving custody of the property. When the property of one agency is lent to another agency, the lending must be authorized in writing by the head of the agency that is lending the property. A written receipt must be executed by the head of the agency that is receiving the property.

(f) On the date prescribed by the comptroller, a state agency shall make a complete physical inventory of all property in its possession. The inventory must be completed once each year.

(g) Within 45 days after the inventory date prescribed by the comptroller, the head of each state agency shall forward to the comptroller a signed statement describing the method used to verify the inventory and a copy of the inventory.

(h) The property records prepared by each state agency must accurately reflect the property currently possessed by the agency. The agency must use the methods prescribed by the comptroller to delete property from the agency's property records. Property that has become surplus or obsolete and no longer serviceable may be deleted from the agency's records only upon authorization by the comptroller. Property that is missing or that is disposed of directly by the agency shall be deleted from the comptroller's records on approval by the state auditor.

Sec. 403.274. CHANGE OF AGENCY HEAD OR PROPERTY MANAGER. When the head or property manager of an agency changes, the new head or property manager of the agency shall execute a receipt for all agency property accounted for to the outgoing agency head or property manager. A copy of the receipt shall be delivered to the comptroller, the state auditor, and the outgoing agency head or property manager.

Sec. 403.275. LIABILITY FOR PROPERTY LOSS. The liability prescribed by this section may attach on a joint and several basis to more than one person in a particular instance. A person is pecuniarily liable for the loss sustained by the state if:

(1) agency property disappears, as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care for its safekeeping;

(2) agency property deteriorates as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care to maintain and service the property; or

(3) agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any state official or employee.

Sec. 403.276. REPORTING TO STATE AUDITOR AND ATTORNEY GENERAL.

(a) If a head of an agency has reasonable cause to believe that any state property in the agency's possession has been lost, destroyed, or damaged through the negligence or fault of any state official or employee, the agency head responsible shall immediately report the loss, destruction, or damage to the state auditor and to the attorney general.

(b) The attorney general shall investigate a report of loss, destruction, or damage to state property.

(c) If the investigation discloses that a property loss has been sustained by the state through the fault of a state official or employee, the attorney general shall make written demand on the state official or employee for reimbursement to the state for the loss sustained.

(d) If the demand made by the attorney general for reimbursement for property loss, destruction, or damage is refused or disregarded by the state official or employee on whom such demand is made, the attorney general may take legal action to recover the value of the state property as the attorney general deems necessary.

(e) Venue for all suits instituted under this section against a state official or employee is in a court of appropriate jurisdiction of Travis County.

Sec. 403.277. FAILURE TO KEEP RECORDS. *If a state agency fails to keep the records or fails to take the annual physical inventory required by this subchapter, the comptroller may refuse to draw warrants or initiate electronic funds transfers on behalf of the agency.*

Sec. 403.278. TRANSFER OF PERSONAL PROPERTY. *(a) A state agency may transfer any personal property of the state in its possession to another state agency with or without reimbursement between the agencies.*

(b) When personal property in the possession of one state agency is transferred to the possession of another state agency, the transfers must be reported immediately to the comptroller by the transferor and the transferee on the forms prescribed.

SECTION 2.31. Section 8.01(a), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) This article applies to personal property belonging to the state. ~~[All personal property belonging to the state shall be accounted for by the head of the agency that has possession of the property.]~~

SECTION 2.32. Section 8.01(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by Chapter 599, Acts of the 72nd Legislature, Regular Session, 1991, is reenacted to read as follows:

(b) The commission shall administer the property accounting system and maintain a complete and accurate set of centralized records of state property based on information supplied by state agencies or the uniform statewide accounting system. The property accounting system shall, to the extent possible, constitute the fixed asset component of the uniform statewide accounting system. The commission shall coordinate with the comptroller in issuing rules, instructions, and necessary requirements for the property accounting system, subject to review and comment by the state auditor. The rules, instructions, and requirements must be consistent with the requirements of the uniform statewide accounting system.

SECTION 2.33. Section 8.02(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) All personal property owned by the state shall be accounted for by the head of the agency that has possession of ~~[possesses]~~ the property. The commission shall by rule ~~[regulation]~~ define what is meant by personal property for the purposes of this article, but such definition shall not include nonconsumable personal property having a value of \$500 or less per unit. In promulgating such rules ~~[regulations]~~, the commission shall take into account the value of the property, its expected useful life, and if the cost of

record keeping bears a reasonable relationship to the cost of the property on which records are kept. The commission shall consult with the state auditor in making such rules [regulations] and the auditor shall cooperate with the commission in the exercise of this rulemaking power by giving technical assistance and advice.

SECTION 2.34. Section 9.11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9.11. PURCHASE OF LEGISLATIVE CHAIRS. *Notwithstanding any provision of law to the contrary, upon the vacation of an office or the termination of employment, an elected officer, an appointed officer, or an executive head of a state agency within the legislative, executive, and judicial departments of state government may purchase the chair used by the officer or employee during his or her tenure of service for its fair market value. A determination of the fair market value of the chair shall be made by the commission for executive and legislative agencies other than the legislature, by the chief justice for judicial agencies, by the speaker of the house of representatives for the house of representatives, and by the lieutenant governor for the senate* ~~[A legislator may purchase the executive chair used by the legislator on the floor of the legislature if:~~

~~(1) the legislator has not been reelected; and~~

~~(2) the legislator pays into the state treasury the commission's estimate of the fair market value of replacement equipment.~~

~~[This section does not limit a legislator's right to purchase state-owned equipment in any other manner].~~

SECTION 2.35. Article 10, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 10.071 to read as follows:

Sec. 10.071. USE OF SYSTEM BY CERTAIN STUDENTS. (a) *Institutions of higher education under Section 61.003, Education Code, that are authorized to use the system of telecommunications services established under this article may allow students of the institution who reside in housing for which the institution provides telephone service to use the system of telecommunications services established under this article. An institution shall recover from a student who chooses to use the system the full pro rata cost attributable to that student's use, including costs identifiable for interconnection to and use of the local publicly switched network.*

(b) The commission shall adopt rules that govern student access to the system, including times of access to the system, and the full recovery of actual costs from each student who uses the system.

(c) In consideration of the duties and responsibilities hereby given the commission under this Act, it shall be in keeping with the policy of this state that no state agency or unit of state government shall engage in the provision of telecommunications products or services to the general public in competition with private enterprise unless there is a finding that such activity is in the public interest. This shall not prohibit students who reside in housing for which institutions of higher education provide telephone service from using service provided under this section.

SECTION 2.36. Section 11.01(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Any reference in the statutes to the State Board of Control or [means] the State Purchasing and General Services Commission *means the General Services Commission.*

SECTION 2.37. Section 11.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by Chapters 778 and 791, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 11.02. DELIVERY OF CERTAIN INTERAGENCY MAIL. (a) The commission shall operate a messenger service for handling the delivery of unstamped written communications and packages between state agencies, including the legislature and legislative agencies, located in Travis County. All such agencies shall utilize the service.

(b) Unless use of the United States Postal Service is required by state or federal law, a state agency subject to Subsection (a) of this section may not use the United States Postal

Service for delivery of interagency mail to another state agency in Travis County, provided, however, state agencies subject to Subsection (a) are not prohibited from using an alternate delivery method.

(c) State warrants may be delivered upon agreement between the state comptroller, the commission, and the agency concerned.

(d) United States mail may be delivered to and from the post office located in the capitol complex on agreement of the commission and the agency concerned.

~~[(d)]~~ It is the intent of the legislature that mail be processed for delivery as expeditiously as its priority dictates and that mail not be unduly delayed solely for the purpose of achieving a lower rate of postage.

(e) In order to improve state agency management of mail operations and to reduce the state's mail costs, this Act requires that state agencies of the executive branch of state government established by the constitution or statutes of this state:

(1) evaluate their mail operations to identify and eliminate practices resulting in excessive mailing costs; and

(2) develop and implement plans and programs for making the necessary improvements in such operations.

(f) Not later than January 1, 1990, the *commission* ~~[State Purchasing and General Services Commission]~~ shall:

(1) evaluate the mail operations of agencies located in Travis County to make recommendations to identify and eliminate practices resulting in excessive mailing costs; and

(2) establish minimum mail-management objectives and responsibilities to be carried out by offices and units of these agencies.

(g) Not later than April 1, 1990, the *commission* ~~[State Purchasing and General Services Commission]~~ shall develop and submit to the governor and the legislative budget office a mail-management plan which provides for:

(1) improving the measurement of agency mail costs, in conjunction with the United States Postal Service, including considering the use of postage meters or stamps;

(2) determining the advantages to agencies of using mail presorting programs;

(3) determining the lowest cost class of mail necessary to effectively accomplish individual agency functions;

(4) evaluating the cost-effectiveness of using alternatives to the United States Postal Service for the delivery of agency mail; and

(5) training agency personnel regarding cost-effective mailing practices.

(h) The *commission* ~~[State Purchasing and General Services Commission]~~ shall:

(1) establish programs to implement the plan prepared under Subsection (g) of this section, including standards for receipt, delivery, collection, and dispatch of mail; and

(2) publish and disseminate mail-management standards, guides, and instructions and establish and implement procedures for monitoring compliance with such standards, guides, and instructions.

(i) State agencies in Travis County shall:

(1) periodically submit to the governor and the legislative budget office reports of their progress in achieving the objectives and other revisions of the plan required by Subsection (g) of this section, including an analysis of savings projected from the improvements in mail management provided for in such revised plan;

(2) designate a person to be responsible for the development and implementation of mail-management programs for all offices and units of the agency; and

(3) review and consolidate mailing lists used by the agency to distribute publications and other materials issued by the agency.

(j) When two or more state agencies are providing common services for mail management, those agencies may designate a single agency to report on behalf of all agencies participating under the contract.

SECTION 2.38. Sections 13.03(a)–(d), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Each biennium a state agency subject to this article shall conduct competitive cost reviews of the functions performed by that agency as provided by this article and shall adopt rules to implement this article. *If the agency has an internal auditor, the internal auditor shall coordinate the activities of the agency that are required under this article.* The agency shall conduct management studies, develop agency in-house cost estimates, and conduct other activities as necessary to implement this article.

(b) In conducting a competitive cost review of the functions performed by a state agency, the agency shall analyze all agency activities, shall identify by November 1 of each year all commercial activities performed by the agency, and shall develop a schedule for the analysis of the commercial activities identified. *For each commercial activity identified, the agency shall also at that time quantify in measurable units the amount of the activity performed by the agency and identify the amount of money budgeted for the activity by the agency. The administrative head of the agency shall promptly submit the agency's inventory of commercial activities, including the workload and budget information, together with its analysis schedule to the State Auditor, Legislative Budget Board, Governor's Office of Budget and Planning, Senate Finance Committee, House Appropriations Committee, and commission for review and comment.* The agency shall then report its determinations to its governing body and shall submit the schedule to its governing body ~~[for approval]~~ by December 1 of each year for approval.

(c) After approval of the schedule by the governing body, the state agency shall conduct a management study of the agency functions specified in the schedule. *The agency shall conduct the study in accordance with instructions issued by the commission.* At the minimum, a management study must contain:

- (1) a description of the agency function;
- (2) an analysis of the quality and quantity of the work of the agency in relation to that function; and
- (3) a description of any efficiency initiatives that the agency could implement to perform the function more efficiently.

(d) *The agency shall submit the completed management study to the commission for approval. After the commission has approved the study, the agency shall estimate the total cost to perform the function and submit each agency in-house cost estimate to the State Auditor for approval. If the agency has an internal auditor, the agency shall submit its cost estimate to its internal auditor for review before forwarding the cost estimate to the State Auditor.*

SECTION 2.39. Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 13.031 to read as follows:

Sec. 13.031. COMPLAINT FROM PRIVATE ENTERPRISE. (a) *In this section, "state agency" has the meaning assigned by Section 1.02 of this Act.*

(b) *A person, including a corporation, that manufactures, processes, sells, leases, distributes, provides, or advertises goods or services for profit, or a duly chartered nonprofit corporation engaged in such activities, may file a written complaint with the executive director of the commission and with the administrative head of a state agency alleging that the state agency has engaged in unfair competition with the person or corporation. The agency shall respond to the complaint and shall furnish the complainant and the commission with a copy of its response not later than the 90th day after the date that the agency receives the complaint.*

(c) *The commission shall keep a copy of each written complaint and response received under this section on file and available for public inspection for at least two years after the date that it received the complaint or response.*

(d) This section does not apply to:

- (1) the Texas Department of Criminal Justice; or*
- (2) an institution of higher education as defined by Section 61.003, Education Code.*

SECTION 2.40. Section 13.05, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.05. DUTIES OF ~~[STATE PURCHASING AND]~~ GENERAL SERVICES COMMISSION. (a) *The commission by rule shall issue instructions that govern the conduct of state agency management studies under Section 13.03 of this article.*

(b) The commission shall conduct a cost comparison review. In conducting the cost comparison review, the commission shall:

- (1) estimate the cost to purchase the service from the private sector. In developing the estimate, the commission may use specific area surveys, state average costs or current bid data;
- (2) determine if the quality and quantity of service that could be provided through purchase is at least equal to the quality and quantity of service proposed in the agency management study and in-house cost estimate;
- (3) determine the total state cost incurred in providing the service based on the approved agency in-house cost estimate; and
- (4) based on estimates of the total cost, compare the total cost to the state to purchase the services with the total state cost of providing the service.

(c) ~~(b)~~ After consultation with the agency and State Auditor, the commission shall determine if the total state cost of providing the service exceeds the cost of purchasing the service. If the commission finds that at least the same quality and quantity of service can be purchased at a savings of more than 10 percent, the commission shall notify the chairman of the governing body of the agency of the amount by which the agency's costs exceed the costs of purchasing the service. The commission may request any information from a state agency necessary to accomplish the purpose of this subsection.

(d) The commission shall establish internal controls, when the commission conducts competitive cost reviews of its own commercial activity functions, to separate internally the duties performed by the commission as a state agency subject to this article and the duties performed by the commission for all state agencies subject to this article.

SECTION 2.401. Section 13.07, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.07. SAVINGS FROM EFFICIENCY INITIATIVE. Except for savings allocated to the productivity bonus program ~~[(Article 6252-29, Vernon's Texas Civil Statutes),]~~ and the state employee incentive program (Article ~~6252-29a~~ ~~[6252-28]~~, Vernon's Texas Civil Statutes), all savings that result from reduced costs under the efficiency initiative shall be used by the agency for treatment, rehabilitation, or other direct services the agency provides to persons it serves *or, when savings result to the commission, for direct services the commission provides to state government.*

SECTION 2.402. Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by Chapter 551, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 13.09. APPLICATION. The state agencies subject to this article are:

- (1) the Texas Department of Mental Health and Mental Retardation;
- (2) the Texas Department of Human Services;
- (3) the Texas Department of *Criminal Justice* ~~[Corrections]~~;
- (4) the Department of Agriculture;
- (5) the Central Education Agency;
- (6) the Texas Higher Education Coordinating Board; ~~[and]~~

- (7) the State Department of Highways and Public Transportation; and
(8) the commission.

SECTION 2.403. Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 13.10 to read as follows:

Sec. 13.10. SUNSET REVIEW OF PROGRAM. (a) The competitive cost review program is subject to Chapter 325, Government Code (Texas Sunset Act), as if the program were a state agency subject to review under that chapter. Unless continued in existence as provided by that chapter, the program is abolished and this article of this Act expires September 1, 1995.

(b) To the extent Chapter 325, Government Code (Texas Sunset Act), imposes a duty on a state agency under review, the commission shall perform the duty as it applies to the competitive cost review program.

SECTION 2.41. Section 14.01, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14.01. DIVISION. The travel division of the commission is composed of the central travel office and the office of vehicle fleet maintenance. The commission shall adopt rules to implement this article, *including rules related to:*

- (1) the structure of travel agency contracts that the commission makes;*
(2) the procedures the commission uses in requesting and evaluating bids or proposals for travel agency contracts from providers; and
(3) the use of negotiated contract rates for travel services by state agencies.

SECTION 2.42. Section 14.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The central travel office shall initially provide services to designated agencies located in Travis County and shall extend its services to all state agencies as it develops the capability to do so. The office may negotiate contracts with private travel agents, with travel and transportation providers, and with credit card companies that provide travel services and other benefits to the state. The commission shall make contracts with more than one provider of travel agency services. Contracts entered into under this section are not subject to the competitive bidding requirements imposed under Article 3 of this Act. The comptroller of public accounts shall audit for compliance of rules adopted to enforce the provisions of this section.

(c) State agencies in the executive branch of state government shall participate in accordance with commission rules in the commission's contracts for travel services, provided that institutions of higher education as defined by Section 61.003, Education Code, shall not be required to participate in the commission's contracts for travel agency services. The commission may provide by rule for exemptions from required participation. Agencies of the state that are not required to participate in commission contracts for travel services may participate as provided by Subsection (a) of this section.

SECTION 2.43. Section 14.04, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14.04. FEES. Fees collected by the travel division under this article shall be deposited in the State Treasury to the credit of the General Revenue Fund *unless a different disposition of the funds is required under federal law.*

SECTION 2.44. Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 3.202 to read as follows:

Sec. 3.202. PREFERENCE FOR ENERGY EFFICIENT PRODUCTS. The commission shall give preference to energy efficient products in purchases made under this Act if:

- (1) the products meet state specifications as to quantity and quality; and*
(2) the cost of the product is equal to or less than the cost of other similar products that are not energy efficient.

SECTION 2.45. Article 4, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 4.081 to read as follows:

Sec. 4.081. NAMING OF PUBLIC BUILDINGS. Buildings owned by the state, including buildings financed under the Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), shall be named in accordance with the following procedure:

(1) The Purchasing and General Services Commission, or its successor, shall submit names proposed for new state buildings, or proposals to re-name existing state buildings, to the presiding officers of the house and senate. Any building, other than a university building or a prison, that bears the name of a person must bear the name of a deceased person whose life was significant in the history of the state.

(2) Approval of names to be placed on new state buildings, or the renaming of existing buildings, proposed by the General Services Commission, shall only be authorized by concurrent resolution passed in a regular or special session of the legislature and signed by the governor.

SECTION 2.46. Article 11, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by adding Section 11.06 to read as follows:

Sec. 11.06. PRINTING. (a) The commission may assist state agencies and assess and evaluate their printing activities. It may recommend changes designed to achieve increased productivity and cost effectiveness of these operations. Recommendations may be reported to the appropriate associate deputy director periodically as determined by the rules of the commission.

(b) The commission may:

(1) adopt standard accounting procedures that permit the evaluation and comparison of the costs of printing operations conducted by state agencies;

(2) coordinate activities among state print shops;

(3) review state agency requisitions for new printing shop equipment;

(4) serve as a resource to state agencies to expedite the production of printing and graphic arts;

(5) maintain a current roster of state print shops and their equipment, facilities, and special capabilities;

(6) serve as a clearinghouse for private vendors of printing services to ensure that printing services and supplies are purchased in the most efficient and economical manner;

(7) coordinate the consolidation of print shops operated by state agencies when consolidation is determined to be appropriate by the agencies involved; and

(8) develop procedures for the recovery of the commission's reasonable costs, under the provisions of Chapter 317, Government Code, out of amounts appropriated to the state agencies in which identified savings are achieved.

(c) This section does not apply to an institution of higher education.

SECTION 2.47. Section 3.25(d), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The secretary of state shall distribute the printed laws of each session of the legislature as follows: (1) one copy to the governor, (2) one copy to the lieutenant governor, (3) one copy to the speaker of the house, (4) one copy to each court of appeals, (5) one copy to each county law library, (6) 10 copies to the Texas Legislative Council, (7) 15 copies to the Legislative Reference Library, (8) 30 copies to the State Law Library, and (9) 60 copies to the Texas State Library [three copies to each of the heads of all departments, (4) one copy to each of the judges of the several courts throughout the state, (5) one copy to each district and county attorney in the state, and (6) one copy to each member of the legislature].

SECTION 2.48. Section 405.014, Government Code, is amended to read as follows:

Sec. 405.014. ACTS OF THE LEGISLATURE. ~~[(a)]~~ At each session of the legislature the secretary of state shall obtain the bills that have become law. Immediately after the closing of each session of the legislature, the secretary of state shall bind all enrolled bills and resolutions in volumes on which the date of the session is placed.

~~[(b) The secretary of state may sell copies of published state laws at a price not more than 25 percent over the publishing cost, but shall reserve a sufficient number of copies for use of the state. The secretary of state shall deposit money received in excess of the costs related to the sale in the state treasury to the credit of the general revenue fund.]~~

PART 3. SCHOOL BUSES

SECTION 3.01. Section 21.165, Education Code, is amended to read as follows:

Sec. 21.165. PURCHASE THROUGH *GENERAL SERVICES COMMISSION* ~~[BOARD OF CONTROL]~~. (a) The purchase of motor vehicles (including buses, bus chassis, bus bodies, tires, and tubes) by the *General Services Commission* ~~[Board of Control]~~ shall be made in compliance with the provisions of this section.

(b) *Whenever possible, the* ~~[The]~~ purchase must be made on the basis of competitive bids submitted under ~~[such]~~ rules ~~[and regulations as may be]~~ made by the *General Services Commission* ~~[Board of Control]~~.

(c) The purchase must be authorized by a requisition, which may be submitted by either a board of county school trustees or the board of trustees of a school district. The requisition must include a general description of the article or articles desired, as well as any other applicable matter specified in this section.

(d) If the requisition is for the purchase of a motor vehicle, bus, bus body, or bus chassis, it must be approved by either the county school board when funded under law or the board of trustees of a school district and by the commissioner of education.

(e) If the requisition is for the purchase of tires and tubes, it must be approved by the county superintendent or the chief administrative officer of a school district.

(f) If the requisition is for the purchase of special equipment required, because of climatic or road conditions, to guarantee adequate safety and comfort of school children, the requisition must describe the special conditions and requirements so that the *General Services Commission* ~~[Board of Control]~~ may purchase equipment which it determines to be adapted or designed for the conditions or requirements.

(g) *The board of county school trustees or board of trustees of a school district shall* ~~[requisition must contain a certification as to the funds that will be available to]~~ pay for the article or articles requisitioned *as directed by the General Services Commission*.

SECTION 3.011. Section 21.174, Education Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) *In this section, a vehicle is considered to be capable of using compressed natural gas or other alternative fuels if the vehicle is capable of using compressed natural gas or other alternative fuels either in its original equipment engine or in an engine that has been converted to use compressed natural gas or other alternative fuels after September 1, 1991, unless the time for compliance is extended pursuant to Subsection (i) of this section.*

(i) *The General Services Commission may extend the date by which a vehicle powered by a traditional gasoline or diesel engine shall be capable of using compressed natural gas or other alternative fuels as required under this section for one or more periods of 90 days, but not beyond September 1, 1993, if it finds a lack of ability to acquire such vehicles with original alternative fuels equipment, to acquire such vehicles which are able to be converted, or to convert such vehicles to use compressed natural gas or other alternative fuels.*

SECTION 3.02. Section 21.180, Education Code, is amended to read as follows:

Sec. 21.180. PURCHASE OF VEHICLES. ~~[(a) Motor vehicles used for the purpose of transporting school children, including school buses, their chassis and/or bodies purchased through the state board of control, shall be paid for by the state board of control]~~

~~as set out in applicable laws. The legislature may appropriate out of any money in the state treasury not otherwise appropriated a sum not exceeding \$250,000, or as much thereof as necessary, for the state board of control to be used for such purposes.~~

~~[(b) Any sum appropriated shall be known as the school bus revolving fund. When motor vehicles and school buses are delivered to the various schools coming within the provisions of this subchapter, the governing bodies of those schools shall reimburse the state board of control for the money expended for such school buses including their chassis and/or bodies and the money shall be deposited by the state board of control in the school bus revolving fund.~~

~~[(e)] All purchases of motor vehicles must comply with the alternative fuels use requirements of Section 21.174.~~

SECTION 3.03. Sections 21.182(a), (d), and (h), Education Code, are amended to read as follows:

(a) As an alternative to purchasing school buses, a county or local district school board may contract with any person for use, acquisition, or lease with option or options to purchase any school bus or buses if, at the discretion of the school board, such a contract is determined to be economically advantageous to the school district and complies with the alternative fuels requirements of Section 21.174. Contracts may be in the form of a lease or a lease with option or options to purchase. *A contract is in the form of a lease if it is a contract for the use and possession of one or more school buses for consideration. Ownership of a bus acquired through a lease or a lease with an option to purchase remains with the lessor unless the lessee exercises an option to purchase and purchases the bus under the option. A school bus that is leased or leased with an option to purchase under this section must meet or exceed the requirements related to safety that apply to purchased or privately operated school buses under Section 11.12.* Contracts in the form of an installment purchase or any form other than a lease or a lease with option or options to purchase shall be subject to the provisions of Section 21.165, as well as rules [and regulations] of the [State Purchasing and] General Services Commission.

(d) *The competitive bidding requirements of Section 21.901 apply to each contract in the form of a lease or lease with an option to purchase under this section [Each county or district school board shall comply with the terms of the Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes) in entering into contracts, including the requirement that certain contracts be awarded pursuant to public bids, except that it is not necessary for a school district to submit the question of entering into a contract to a referendum].*

(h) A contract under this section may have any lawful term of not less than two or more than [not to exceed] 10 years. A county or local district school board that contracts under this section shall report the existence of the contract and the number of buses under the contract to the General Services Commission within 45 days after the date the contract was made. A county or local district school board that terminates a contract under this section before the two-year minimum term has expired shall report the termination and the reason for the termination to the General Services Commission within 45 days after the date the contract was terminated.

SECTION 3.04. Section 21.901, Education Code, is amended by adding Subsection (h) to read as follows:

(h) Whenever possible, each contract proposed to be made by any Texas public school board for the lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$10,000 or more.

SECTION 3.07. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.927 to read as follows:

Sec. 51.927. ENERGY CONSERVATION MEASURES. (a) The governing board of an institution of higher education may enter into a contract for energy conservation

measures to reduce energy consumption or operating costs of institutional facilities in accordance with this section.

(b) A contract to which this section applies includes a contract for the installation of:

(1) insulation of a building structure and systems within a building;

(2) storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(3) automatic energy control systems, including computer software and technical data licenses;

(4) heating, ventilating, or air conditioning system modifications or replacements;

(5) lighting fixtures that increase energy efficiency;

(6) energy recovery systems;

(7) electric systems improvements; or

(8) other energy conservation-related equipment.

(c) The person with whom the board contracts must be experienced in the design, implementation, and installation of energy conservation measures.

(d) Before entering into a contract for energy conservation measures, the board shall require the provider of the energy conservation measures to file with the board a performance bond that is in an amount the board finds reasonable and necessary to protect the interests of the institution and is conditioned on the faithful execution of the terms of the contract.

(e) The board may enter into a contract for a period of more than one year for energy conservation measures with a person if the board finds that the amount the institution would spend on the energy conservation measures will not exceed the amount to be saved in energy and operating costs over 10 years from the date of installation. If the term of a contract for energy conservation measures exceeds one year, the board's contractual obligation in any year during the term of the contract may not exceed the total energy and operating cost savings, including but not limited to electrical, gas, or other utility cost savings and operating cost savings resulting from automatic monitoring and control, as determined by the board in this subsection, divided by the number of years in the contract term. The board shall consider all costs of the energy conservation measures, including costs of design, engineering, installation, maintenance, repairs, and debt service.

(f) A contract for energy conservation measures may be a lease/purchase contract, with a term not to exceed 10 years, that meets federal tax requirements for tax-free municipal leasing or long-term financing.

(g) A contract under this section may be let under competitive sealed proposal procedures. Notice of the request for proposals shall be given in the manner provided for in Sec. 3.12, Article 601b, Revised Statutes. The notice of the request for proposals shall be provided to the office of the governor for review and comment at least 30 days prior to any contract award. The contract shall be awarded to the responsible offeror whose proposal, following negotiations, is determined by the institution to be the most advantageous to the institution considering the guaranteed savings and other evaluation factors set forth in the request for proposals, except that if the institution finds that no offer is acceptable, it shall refuse all offers.

(h) In accordance with regulations adopted by the institution, the institution may conduct discussions with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals. To obtain the best final offers, the institution may allow proposal revisions after submissions and before the award of the contract.

(i) *If provided in a request for proposals under Subsection (g) of this section, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after a contract is awarded unless the information is excepted from disclosure under Article 6252-17a, Revised Statutes.*

PART 4. ARCHITECTURAL BARRIERS

SECTION 4.01. Article 7, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is transferred to Title 132A, Revised Statutes, redesignated as Article 9102, Revised Statutes, and amended to read as follows:

Art. 9102 [ARTICLE 7]. ARCHITECTURAL BARRIERS

Sec. 1 [7.01]. POLICY. The provisions of this article are to further the policy of the State of Texas to encourage and promote the rehabilitation of *persons with disabilities* [~~handicapped or disabled citizens~~] and to eliminate, insofar as possible, unnecessary barriers encountered by [~~aged, handicapped, or disabled~~] *persons with disabilities*, whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when such persons cannot readily use public buildings.

Sec. 2 [7.02]. APPLICATION. (a) The standards and specifications adopted under this article shall apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. To such extent as is not contraindicated by federal law or beyond the state's power of regulation, these standards shall also apply to buildings and facilities constructed in this state through partial or total use of federal funds. All buildings and facilities constructed in this state, or substantially renovated, modified, or altered, after the effective date of this article from any one of these funds or any combination thereof shall conform to each of the standards and specifications adopted under this article except where the governmental department, agency, or unit concerned shall determine, after taking all circumstances into consideration, that full compliance with any particular standard or specification is impracticable. Where it is determined that full compliance with any particular standard or specification is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the *department* [~~commission~~]. If it is determined that full compliance is not practicable, there shall be substantial compliance *as determined by the department* with the standard or specification to the maximum extent practical, and *the file system maintained by the department shall include the written record of the determination that it is impractical to comply fully with a particular standard or specification and shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.*

(b) These standards and specifications shall be adhered to in those buildings and facilities under construction on the effective date of this article, unless the authority responsible for the construction shall determine that the construction has reached a state where compliance is impractical. This article shall apply to temporary or emergency construction as well as permanent buildings.

(c) These standards and specifications shall be adhered to in all buildings leased or rented in whole or in part for use by the state under any lease or rental agreement entered into on or after January 1, 1972. To such extent as is not contraindicated by federal law or beyond the power of the state's regulation, these standards shall also apply to buildings or facilities leased or rented for use by the state through partial or total use of federal funds. Facilities which are the subject of lease or rental agreements on January 1, 1972, will not be required to meet standards and specifications for the term of the existing lease or rental agreement but must be brought into compliance before a lease or rental agreement is renewed. Where it is determined by the governmental department, agency, or unit concerned that full compliance with any particular standard is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the *department* [~~commission~~]. If it is determined that full compliance is not practical, there shall be substantial compliance *as determined by the department* with the standard or specification to the maximum extent

practical, and *the file system maintained by the department shall include* the written record of the determination that it is impractical to comply fully with a particular standard or specification *and shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.*

(d) Except as otherwise provided in subsection (e) of this section, these standards and specifications shall be adhered to in *buildings defined as "public accommodation" by Section 301(7) of the Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336) that are constructed or substantially renovated, modified, or altered on or after January 1, 1992* ~~[certain privately financed buildings, building elements, and improved areas which are open to public use for education, employment, transportation, or acquisition of goods and services, and which are constructed on or after January 1, 1978, in counties with a population of 45,000 or more. Such facilities include the following:~~

~~[(1) shopping centers which contain in excess of five separate mercantile establishments; compliance with accessibility standards and specifications relative to toilet rooms shall not apply unless the shopping center elects to have public toilet rooms;~~

~~[(2) passenger transportation terminals;~~

~~[(3) theaters and auditoriums having a seating capacity for 200 or more patrons;~~

~~[(4) hospitals and related medical facilities which provide direct medical service to patients;~~

~~[(5) nursing homes and convalescent centers;~~

~~[(6) buildings containing an aggregate total of 20,000 or more square feet of recognizable office floor space;~~

~~[(7) funeral homes; and~~

~~[(8) commercial business and trade schools].~~

(e) The *commissioner* ~~[commission]~~ shall have the authority to waive or modify accessibility standards and specifications when application of such standards and specifications is considered by the *commissioner* ~~[commission]~~ to be irrelevant to the nature, use, or function of a building or facility covered by this article. The *commissioner* ~~[commission]~~ shall not waive or modify any standard or specification when such action would result in a significant impairment of the acquisition of goods and services by ~~[handicapped]~~ *persons with disabilities* or substantially reduce the potential for employment of ~~[handicapped]~~ *persons with disabilities*. All evidence supporting waiver or modification determinations made by the *commissioner* ~~[commission]~~ shall be made a matter of record and become part of the file system maintained by the *department* ~~[commission]~~.

Sec. 3 [7.03]. SCOPE. (a) This article is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.

(b) It is intended to make all buildings and facilities covered by this article accessible to, and functional for, *persons with disabilities* ~~[the physically handicapped]~~ to, through, and within their doors, without loss of function, space, or facilities where the general public is concerned.

Sec. 4 [7.04]. DEFINITIONS. For the purpose of this article the following terms have the meanings as herein set forth:

(1) "*Disability*" means with respect to an individual a physical or mental impairment that substantially limits one or more of the major life activities of such individual. ~~["Nonambulatory disabilities" means impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs.~~

(2) "*Semiambulatory disabilities*" means impairments that cause individuals to walk with difficulty or insecurity. ~~Individuals using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory. The listing here made is illustrative and shall not be construed as being exhaustive.~~

(3) "*Sight disabilities*" means total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to danger.

~~[(4) "Hearing disabilities" means deafness or hearing handicaps that might make an individual insecure in a public area because he is unable to communicate or hear warning signals.~~

~~[(5) "Disabilities of coordination" means faulty coordination or palsy from brain, spinal, or peripheral nerve injury.~~

~~[(6) "Aging" means those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination, and perceptiveness but are not accounted for in the aforementioned categories].~~

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Commissioner" means the commissioner of licensing and regulation.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Architect" means a person registered as an architect under Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes).

(6) "Engineer" means a person registered as an engineer under The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes).

Sec. 5 [7-05]. RESPONSIBILITIES FOR ENFORCEMENT. (a) ~~In the [The responsibility for] administration and enforcement of this article [shall reside primarily in the commission], [but] the commissioner [commission] shall have the assistance of appropriate state rehabilitation agencies and of the Governor's Committee on People with Disabilities in carrying out commissioner [its] responsibilities [under this article]. State agencies involved in extending direct services to [disabled or handicapped] persons with disabilities are authorized to enter into interagency contracts with the department [commission] to provide such additional funding as might be required to insure that service objectives and responsibilities of such agencies are achieved through the administration of this article. In enforcing this article the commissioner [commission] shall also receive the assistance of all appropriate elective or appointive state officials. The commissioner may contract with other state agencies, political subdivisions, nonprofit organizations, and private independent contractors to perform the commissioner's review and inspection functions for privately financed buildings that are not leased by the state or a political subdivision and may terminate those contracts for cause. The department [commission] shall from time to time inform professional organizations and others, including persons with disabilities, architects, engineers, and other building professionals, of this law and its application. Information disseminated by the department about the program shall include the types of buildings and leases covered by this article, the procedures for submitting plans and specifications for review, complaint procedures, and the address and phone number of the department's program. The department may enter into cooperative agreements to integrate information about the program with information produced or distributed by other public entities or by private entities.~~

(b) The commissioner [commission] shall have all necessary powers to require compliance with the commissioner's [its] rules and regulations and modifications thereof and substitutions therefor, ~~including powers to institute and prosecute proceedings in the district court to compel such compliance, and shall not be required to pay any entry or filing fee in connection with the institution of such proceedings]. The commission may also impose an administrative penalty under Section 17, Article 9100, Revised Statutes, on a building owner for a violation of this article or a rule adopted under this article. Each day that the violation is not corrected constitutes a separate violation. The [commission or a handicapped person who seeks injunctive relief to obtain compliance with the rules and regulations] commissioner when the commission considers imposing an administrative penalty under this section, shall first notify a person responsible for the building and allow that person 90 days to bring the building into compliance. The commissioner [commission] shall have the authority to extend the 90-day period when circumstances justify such extension.~~

(c) ~~[The commission is authorized to promulgate such rules and regulations as might reasonably be required to implement and enforce this article.]~~ The standards and speci-

cations to be adopted by the *commissioner* [commission] under this article shall be consistent in effect to those adopted by the American National Standards Institute, Inc. (or its federally recognized successor in function), and the *department* [commission] shall publish the standards and specifications in a readily accessible form for the use of interested parties. *The standards, specifications, and other rules to be adopted by the commissioner under this article shall also be consistent with those adopted under federal law.*

(d) All plans and specifications for construction *or for the substantial renovation, modification, or alteration* of buildings subject to the provisions of this article shall be submitted to the *department* [commission] for review and approval prior to *the time that construction or that substantial renovation, modification, or alteration on the building begins* [bidding and award of contract] in accordance with rules and regulations adopted by the *commissioner* [commission]. *The plans and specifications shall be submitted to the department by the architect or engineer who has overall responsibility for the design of the constructed or reconstructed building. The building owner shall submit the plans and specifications to the department if there is no architect or engineer with that responsibility unless the cost of the construction or reconstruction project is less than \$50,000.* Likewise, any substantial modification of approved plans shall be resubmitted to the *department* [commission] for review and approval. *The plans and specifications that are not approved or disapproved by the department within 30 days from the receipt of the plans and specifications are automatically approved. If an architect or engineer required to submit or resubmit plans and specifications to the department fails to do so in a timely manner, the commissioner shall report the fact to the Texas Board of Architectural Examiners or the State Board of Registration for Professional Engineers, as appropriate.*

(e) The *commissioner* [commission] may review plans and specifications, make inspections, and issue certifications that structures not otherwise covered by this article are free of architectural barriers and in compliance with the provisions of this article. *The department shall inspect each building subject to this article within the first year after the date that construction or substantial renovation, modification, or alteration of the building is completed. The department shall inspect each building that is subject to this article because of a lease to the state during the first year of the lease [commission is authorized to charge a fee, not to exceed \$100, for review of plans and specifications, inspection, and certification of each privately owned building or facility.*

~~[(f) With respect to buildings and facilities that are under the jurisdiction and control of The University of Texas Board of Regents, the responsibility for administration and enforcement of this article shall reside in such governing board, and in the discharge of such responsibility the governing board shall have the same responsibilities, duties, powers, and authority that are herein imposed on and delegated to the commission with respect to all other buildings and facilities covered by this article].~~

Sec. 6. The commission shall set and charge, in accordance with Section 12, Article 9100, Revised Statutes, fees for performing its functions under this article. The fees shall be paid by the owner of a building when the department performs a function related to the building under this article. The fees must include a fee for:

- (1) reviewing the plans or specifications of a building;*
- (2) inspecting a building; and*
- (3) processing a request to waive or modify accessibility standards for a building.*

Sec. 7. (a) The commission shall appoint an advisory committee for the architectural barriers program. The committee shall be composed of building professionals and persons with disabilities who are familiar with architectural barrier problems and solutions. The committee shall be composed of at least eight members. Persons with disabilities must make up a majority of the membership.

(b) A committee member serves at the will of the commission. A member may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member.

(c) The committee shall elect a member of the committee as chair. The committee shall meet at least twice each calendar year at the call of the committee chair or at the call of the commissioner.

(d) The committee periodically shall review the rules relating to the architectural barriers program and recommend changes in the rules to the commission and the commissioner. The commissioner shall submit all proposed changes to rules and procedures that relate to the architectural barriers program to the committee for review and comment before adoption or implementation of the new or amended rule or procedure.

Sec. 8. All references in law to the former architectural barriers statute, Article 7, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), mean this article.

SECTION 4.02. Section 11(b), Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), as amended by Chapter 579, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(b) The Board may revoke or suspend a registration certificate, place on probation a person whose registration certificate has been suspended, reprimand a person registered under this Act, or assess an administrative penalty against a person registered under this Act in an amount not to exceed \$1,000 on the following grounds:

- (1) a violation of this Act or of a rule of the Board adopted under this Act;
- (2) a cause for which the Board is authorized to refuse to grant a registration certificate;
- (3) gross incompetency;
- (4) recklessness in the construction or alteration of a building by an architect designing, planning, or observing the construction or alteration; ~~or~~
- (5) dishonest practice by one holding a registration certificate; *or*
- (6) for failing to timely provide plans and specifications to the Texas Department of Licensing and Regulation as required by Article 9102, Revised Statutes.*

SECTION 4.03. Section 22(a), The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Board shall revoke, suspend, or refuse to renew a registration, shall reprimand a registrant, may deny an application for registration, or may probate any suspension of any registrant who is determined by the Board to be censurable for:

- (1) The practice of any fraud or deceit in obtaining a certificate of registration;
- (2) Any gross negligence, incompetency, or misconduct in the practice of professional engineering as a registered professional engineer;
- (3) Any documented instance of retaliation by an applicant against an individual who has served as a reference for that applicant; ~~or~~
- (4) A violation of this Act or a Board rule; *or*
- (5) A failure to timely provide plans and specifications to the Texas Department of Licensing and Regulation as required by Article 9102, Revised Statutes.*

PART 5. OTHER MATTERS RELATING TO STATE ACQUISITION OF PROPERTY AND SERVICES

SECTION 5.01. Section 497.027(a), Government Code, as renumbered by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) An agency of the state that purchases articles and products under this subchapter must requisition the purchase through the ~~[State Purchasing and]~~ General Services Commission *except for purchases of items or services not included in an established contract. The purchase of items not included in an established contract and that do not exceed the dollar limits established under Section 3.08(a), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), may be acquired*

directly from the department on the agency's obtaining an informal or a formal quotation for the item and issuing a proper purchase order to the department.

SECTION 5.02. Section 9, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. ISSUANCE OF BONDS. (a) The board may issue and sell bonds in the name of the authority to finance projects that consist of the acquisition or construction of buildings in Travis County, Texas. Upon receiving a request described in Section 5.34, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), the board may issue bonds in amounts up to the previously authorized amount of bonds plus five percent of the acquisition cost of the property, all as described in the request.

(b) *When the acquisition or construction of a building has been authorized in accordance with this Act or under Section 5.34, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), the board shall promptly issue and sell bonds in the name of the authority under this Act, including Sections 10B and 16 of this Act, to finance the acquisition or construction of the building. When the proceeds from the bond issuance are available, the board shall promptly deposit the proceeds in the state treasury under Section 28 of this Act and shall promptly make the determinations that are to be made by the board under Section 28 of this Act.*

(c) The commission or other state agency involved in acquiring or constructing a building financed by the issuance of bonds under this Act shall carry out its statutory authority as if the building were financed by legislative appropriation. The board and either the commission or another state agency involved in the acquisition or construction of a building shall adopt a memorandum of understanding that defines the division of authority between the board and the commission or agency.

SECTION 5.03. Section 27, Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes), as amended by Chapters 786 and 1042, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 27. PURCHASE AND RENOVATION OF TEXAS EMPLOYMENT COMMISSION PROPERTY. (a) The Texas Employment Commission shall sell to the commission office buildings and parking facilities in its possession in or near the Capitol Complex, *and the commission shall purchase the buildings and parking facilities, at a sales price that shall not exceed the maximum amount of funds authorized for the acquisition and renovation in Chapter 700, Acts of the 68th Legislature, Regular Session, 1983. [The sale shall be under an agreement between the Texas Employment Commission and the commission on a price sufficient to provide the Texas Employment Commission adequate, alternative office and parking space outside the Capitol Complex and with the necessary concurrence of the United States government.]*

(b) ~~[The commission shall, under an agreement with the Texas Employment Commission and subject to the availability of funds authorized by this Act, purchase the office buildings and parking facilities of the Texas Employment Commission located in or near the Capitol Complex.]~~ After the office buildings have been acquired, the commission may, from funds made available by the authority, renovate the facilities as necessary for occupancy by other state agencies. In negotiating the price for the Texas Employment Commission facilities, the commission shall consider the cost to the Texas Employment Commission of alternative space *outside the Capitol Complex*. The commission shall also consider the price in the context of the reasonable rates that might otherwise be paid by prospective occupying state agencies for rent in comparable space.

~~[Sec. 27. (a) The State Purchasing and General Services Commission may take possession of the office buildings and parking facilities in or near the Capitol Complex occupied by the Texas Employment Commission. To take possession the State Purchasing and General Services Commission must provide the Texas Employment Commission adequate, alternative office and parking space in the city of Austin and obtain the necessary concurrence that may be required by the United States government. On receiving that concurrence, title to the property is in the State Purchasing and General Services Commission, and the employment commission and purchasing commission shall execute the documents necessary to show title in the purchasing commission.~~

~~[(b) If the State Purchasing and General Services Commission takes possession of the office buildings and parking facilities of the Texas Employment Commission located in or near the Capitol Complex, the State Purchasing and General Services Commission may, from funds made available by the authority or from other available funds, renovate the facilities as necessary for occupancy by other state agencies or by the legislature or legislative agencies. Before renovating the facilities or making the facilities available for occupancy to a state agency, the purchasing commission shall offer the space to the legislature for its use and occupancy. For that purpose, the purchasing commission shall notify the lieutenant governor and the speaker of the house in writing, who may claim the property for the use and occupancy of the legislature and legislative agencies by delivering a written notice signed by both officers to the executive director of the commission. The notice must be delivered to the executive director before the 120th day after the date on which those officers receive notice of the availability of the property.]~~

~~[(c) If at any time the lieutenant governor and the speaker deliver a written notice, signed by each, to the executive director of the purchasing commission stating that the employment commission facilities in or near the Capitol Complex are necessary for legislative use and occupancy, the property shall be made available for that use and occupancy as soon as possible but not later than the second anniversary of the date on which the executive director of the purchasing commission receives the notice from the lieutenant governor and the speaker. If the employment commission is at that time in possession of the property:~~

~~[(1) the purchasing commission shall take possession of the property and the employment commission shall vacate the property;~~

~~[(2) from funds made available by the authority or from funds appropriated for that purpose, the purchasing commission shall purchase or construct adequate, alternative office and parking space in the city of Austin for the employment commission and shall obtain the necessary concurrence that may be required by the United States government; and~~

~~[(3) on receiving that concurrence, title to the property is in the purchasing commission and the purchasing commission and employment commission shall execute the documents necessary to show title in the purchasing commission.]~~

~~[(d) Subject to the availability of funds, the purchasing commission may renovate facilities purchased for the employment commission as necessary for occupancy by the employment commission. Any available funds remaining after purchase and renovation of the facilities for the employment commission may be used by the purchasing commission to renovate the facilities of the employment commission transferred under this section as necessary for occupancy by state agencies or the legislature and legislative agencies.]~~

SECTION 5.04. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.928 to read as follows:

Sec. 51.928. WRITTEN CONTRACTS OR AGREEMENTS BETWEEN CERTAIN INSTITUTIONS. (a) In this section, "governing board" and "institution of higher education" have the meanings assigned by Section 61.003 of this code.

(b) A written contract or agreement for the furnishing of resources or services that is between institutions of higher education with a common governing board is not subject to the requirements of Chapter 771, Government Code, if the governing board has adopted rules providing for governing board review and approval of those contracts.

SECTION 5.05. Subchapter E, Chapter 12, Health and Safety Code, is amended by adding Section 12.053 to read as follows:

Sec. 12.053. INVENTORY REQUIREMENTS. All equipment and supplies which are purchased through a program, contract, or grant with the department by or for qualified entities, including but not limited to individuals, corporations, local units of government and other state agencies and that are used to promote and maintain public health are exempt from the statewide personal property accounting system administered by the comptroller of public accounts described in Subchapter L,

Chapter 403, Government Code. The qualified entities shall maintain complete equipment and supply records. The department may request the return of any usable equipment or supplies purchased with funds provided by the department upon the termination of the program, contract, or grant.

SECTION 5.06. Section 481.027, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (e) and (f) to read as follows:

(a) The department shall maintain and operate offices in foreign countries for the purposes of promoting investment that generates jobs in Texas, exporting of Texas products, tourism, and international relations for Texas. The offices shall be named "The State of Texas" offices. To the extent permitted by law, other state agencies that conduct business in foreign countries may place staff in the offices established by the department and share the overhead and operating expenses of the offices. Other state agencies and the department may enter interagency contracts for this purpose. *Chapter 771 does not apply to those contracts. Any purchase for local procurement or contract in excess of \$5,000 shall be approved by the executive director prior to its execution.*

(b) The offices shall be accessible to Texas-based institutions of higher education and their nonprofit affiliates for the purposes of fostering Texas science, technology, and research development, international trade and investment, and cultural exchange. The department and the institutions may enter contracts for this purpose. *Chapter 771 does not apply to those contracts.*

(e) *Articles 8 and 9, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), apply to the operation and maintenance of the offices. No other provisions of that Act apply to the operation and maintenance of the offices, or to transactions of the department that are authorized by this section.*

(f) *The General Services Commission may, at the request of a state agency, provide to the agency services exempted from the application of the State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes) under Subsection (e). Chapter 771 does not apply to services provided under this subsection. The commission shall establish a system of charges and billings that ensures recovery of the cost of providing the services and shall submit a purchase voucher or a journal voucher, after the close of each month, to the agency for which services were performed.*

SECTION 5.061. Section 497.026(b), Government Code, as renumbered and amended by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(b) If the ~~[State Purchasing and]~~ General Services Commission determines that an article or product produced by the institutional division under this subchapter does not meet the requirements of an agency of the state or a political subdivision, or that *the institutional division of the Texas Department of Criminal Justice determines that* the division is unable to fill a requisition for an article or product, the agency or subdivision may purchase the article or product from another source.

SECTION 5.062. Section 497.027, Government Code, as renumbered by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Subsection (c) to read as follows:

(c) *If an agency or political subdivision purchasing goods under this subchapter desires to purchase goods or articles from the division, it may do so without complying with any other state law otherwise requiring the agency or political subdivision to request competitive bids for the article or product. Nothing herein shall be interpreted to require a political subdivision to purchase goods or articles from the division if the political subdivision determines that the goods or articles can be purchased elsewhere at a lower price or an agency to purchase goods or articles from the division if the agency determines, and the General Services Commission certifies, that the goods or articles can be purchased elsewhere at a lower price.*

SECTION 5.07. Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes), as amended by Chapter 561, Acts of the 72nd Legislature, Regular Session, 1991, is reenacted and amended to read as follows:

Sec. 1. DEFINITIONS. In this Act:

(1) "Consulting service" means the human service of studying or advising a *state* ~~[an] agency under a [an-independent] contract that does not involve the traditional relationship of employer and employee. [The term includes routine work provided to an agency under an independent contract that is necessary to the functioning of the agency's programs. The term includes only services for which payment is made from funds;~~

~~[(A) that are appropriated by the legislature;~~

~~[(B) that are generated by statutory functions of the agency; or~~

~~[(C) that are received by the state from the federal government and that are awarded to the state without requiring the state to request the funds through a grant program.]~~

(2) "Private consultant" means an *individual or* entity that performs or proposes to perform consulting services.

(3) "State agency" means a *[any] state department, commission, board, office, institution, facility, or other agency the jurisdiction of which is not limited to a geographical portion of the state. The term includes*~~[,including]~~ a university system and ~~[or]~~ an institution of higher education as defined in Section 61.003, ~~[Texas]~~ Education Code. *The term does not include*~~[,as amended, other than]~~ a public junior college.

Sec. 2. EXEMPTION; APPLICATION. (a) This Act does not apply to and is not intended to discourage the use of consulting services provided by:

(1) professions listed under the Professional Services Procurement Act (Article 664-4, Vernon's Texas Civil Statutes),

(2) ~~[employment of registered professional engineers or registered architects for architectural or engineering studies or for the design or construction of state facilities,]~~ private legal counsel,

(3) investment counselors,

(4) actuaries,

(5) ~~[or physicians, dentists, or]~~ other medical or dental services providers, or

(6) other consultants whose services are determined by the governing board of a retirement system trust fund to be necessary for the performance of its fiduciary duties under the state constitution, provided however, the governing board shall comply with Section 6 of this Act. Contracts made under this subsection shall not be void for failure to comply with the requirements of the article ~~[and it is not intended to discourage their use].~~

(b) This Act applies to consulting services that a state agency purchases with funds:

(1) appropriated by the legislature;

(2) generated by the statutory duties of a state agency; or

(3) received from the federal government to the extent that federal laws or regulations do not conflict with this Act.

(c) If the governor, comptroller, and General Services Commission consider that it is more advantageous to the state for the procurement of a particular consulting service to be subject to the procedures of Article 3, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), rather than to the procedures of this Act, they may make a memorandum of understanding to that effect and each adopt that memorandum of understanding by rule. State agency procurement of a consulting service included in a memorandum of understanding adopted under this subsection is subject to Article 3, State Purchasing and General Services Act

(Article 601b, Vernon's Texas Civil Statutes), and not subject to the requirements of this Act.

(d) The comptroller by rule may define circumstances in which state agency procurement of certain consulting services that will cost less than a minimum amount established by the comptroller are excepted from the requirements of this Act, if the comptroller determines that it would be more cost-effective for the state.

Sec. 3. USE AND SELECTION OF PRIVATE CONSULTANT. (a) A state agency may use a private consultant only if:

- (1) there is a substantial need for the consulting services; and
- (2) the state agency cannot adequately perform the consulting services with its own personnel or through a contract with another state agency.

(b) In selecting a private consultant, a state agency shall:

- (1) base its choice on demonstrated competence, knowledge, and qualifications, and on the reasonableness of the proposed fee for the services; and
- (2) when other considerations are equal, give a preference to a private consultant whose principal place of business is within the state or who will manage the consulting engagement wholly from one of its offices within the state.

Sec. 4. NOTICE OF INTENT TO EMPLOY CONSULTANT. (a) ~~Before~~ [At least 30 days before] contracting with [to use] a private consultant whose total [anticipated] fee is reasonably foreseeable to exceed [exceeds] \$10,000, a state agency shall:

(1) notify the Legislative Budget Board and the governor's [Governor's] Budget and Planning Office of the agency's intent to contract with [use] a private consultant;

(2) [and shall] supply the Legislative Budget Board and the governor's [Governor's] Budget and Planning Office with information demonstrating that the agency has complied or will comply with [the policies of] Section 3; and

(3) obtain a finding of fact from the governor's Budget and Planning Office that the consulting services are necessary.

(b) A consulting services contract that a state agency executes without first obtaining the required finding of fact from the governor's Budget and Planning Office is void [of this Act].

Sec. 5. [INFORMATION RELATING TO CONSULTANT STUDIES. (a) After a state agency contracts to use a private consultant, the state agency shall, upon request, supply the Legislative Budget Board and the Governor's Budget and Planning Office with copies of all documents, films, recordings, or reports of intangible results of the consultant service that are developed by the private consultant.

(b) Copies of all documents, films, recordings, or reports of intangible results shall be filed with the Texas State Library and shall be retained by the library at least five years after receipt.

(c) As part of the biennial budgetary hearing process conducted by the Legislative Budget Board and the Governor's Budget and Planning Office, a state agency shall supply the Legislative Budget Board and the Governor's Budget and Planning Office with reports on what action was taken in response to the recommendations of any private consultant employed by the state agency.

[Sec. 6.] PUBLICATION IN TEXAS REGISTER. (a) No later than the 30th day before entering into a consulting services contract with a reasonably foreseeable value of more than \$10,000, [If it is reasonably foreseeable that a proposed use of a private consultant may involve a contract with a value in excess of \$10,000,] a state agency [or a regional council of government created under Chapter 570, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1011m, Vernon's Texas Civil Statutes), that proposes the use of a private consultant] shall file[, at least 40 days before contracting with a private consultant, the following information] with the secretary of state [Secretary of State] for publication in the Texas Register:

- (1) an [a notice of] invitation for private consultants to provide offers of consulting services;

(2) the individual [person] who should be contacted by a private consultant who intends [wants] to make an offer;

(3) the closing date for the receipt of offers [of consulting services]; and

(4) the procedure by which the state agency [or council of government] will award the [contract for] consulting services contract.

(b) If the consulting service desired by a state agency relates to a service previously performed by a private consultant, the agency shall disclose that fact in the invitation for offers filed with the secretary of state under Subsection (a) of this section. If the state agency intends to award the contract for the consulting services to the private consultant that previously performed the services unless a better offer is submitted, the agency shall disclose this intention in the invitation for offers.

Sec. 6. PUBLICATION AFTER ENTERING CONTRACT. (a) No later than the 10th day after executing a consulting services contract, a [(b) A] state agency [or regional council of government] that is subject to the requirements of Section 5 [complies with Subsection (a) of this section] shall file [within 10 days after contracting with the private consultant the following information] with the secretary of state [Secretary of State for publication in the Texas Register]:

(1) a description of the activities [study] that the private consultant will [is to] conduct;

(2) the name and business address of the private consultant;

(3) the total value and the beginning and ending dates of the contract; and

(4) the due dates of documents, films, recordings, or reports [of intangible results] that the private consultant is required to present to the agency [or council of government].

(b) Upon receipt of the information described in Subsection (a) of this section, the secretary of state shall publish the information in the Texas Register.

Sec. 7. RENEWAL; AMENDMENT; EXTENSION. (a) When a state agency intends to renew a consulting services contract, the original value of which was reasonably foreseeable to be greater than \$10,000, the agency shall:

(1) file with the secretary of state for publication in the Texas Register the information required by Section 6 no later than the 10th day after the renewal is executed if the renewal will have a reasonably foreseeable value of \$10,000 or less; or

(2) comply with the requirements of Sections 4 and 5 if the value of the renewal will have a reasonably foreseeable value of more than \$10,000.

(b) When a state agency intends to renew a consulting services contract, the original value of which was reasonably foreseeable to be \$10,000 or less, the agency shall comply with the requirements of Sections 4 and 5 if the total value of the original contract and the renewal is reasonably foreseeable to exceed \$10,000.

(c) When a state agency intends to amend or extend a consulting services contract, the original value of which was reasonably foreseeable to be greater than \$10,000, the agency shall:

(1) file the information required by Section 6, no later than the 10th day after the amendment or extension is executed, with the secretary of state for publication in the Texas Register if the value of the amendment or extension is reasonably foreseeable to be \$10,000 or less; or

(2) comply with Sections 4 and 5 if the value of the amendment or extension is reasonably foreseeable to exceed \$10,000.

(d) When a state agency intends to amend or extend a consulting services contract, the original value of which was reasonably foreseeable as \$10,000 or less, the agency shall comply with the requirements of Sections 4 and 5 if the total value of the original contract and the amendment or extension is reasonably foreseeable to exceed \$10,000.

~~[(e) The Texas State Library shall compile a list of documents, films, recordings, and reports of intangible results submitted to it under Section 5(b) of this Act and shall file~~

~~the list in each quarter of the calendar year with the Secretary of State for publication in the Texas Register.~~

~~[(d) If the consulting service desired by a state agency is a continuation of a service previously performed by a private consultant, the agency shall state this in the invitation for offers filed with the Secretary of State under Subsection (a) of this section. If the state agency intends to award the contract for the consulting services to the private consultant that previously performed the services unless a better offer is submitted, it shall state this in the invitation for offers.]~~

Sec. 8 [6A]. CONFLICTS OF INTEREST. (a) An officer or employee of a state agency who has a financial interest in *an association, partnership, [a] firm, or corporation [that is a private consultant and]* that submits an offer to provide consulting services to the agency or who is related within the second degree by consanguinity or affinity, as determined under Article 5996h, Revised Statutes, to *an individual [a person]* having the financial interest shall report the financial interest to the executive head of the state agency not later than the 10th day after the day on which the *association, partnership, firm, or corporation [private consultant]* submits the *[consulting services]* offer.

(b) *This section applies to all consulting services contracts, including renewals, amendments, and extensions of those contracts.*

Sec. 9 [6B]. RESTRICTION ON FORMER EMPLOYEES OF A STATE AGENCY.

(a) *An individual [A person] who offers to perform a consulting service for a state agency and who has been employed by that [the] agency or by another [state] agency at any time during the two years preceding the making of the offer shall disclose in the offer:*

(1) *the nature of the previous employment with the agency or the other [state] agency;*

(2) *[,] the date of termination of the employment[;], and*

(3) *the annual rate of compensation for the employment at the time of its termination.*

(b) *A state agency that accepts an [the] offer from an individual described in Subsection (a) of this section shall include in the information filed under Section 6 [Subsection (b) of Section 6 of this Act] a statement about the individual's previous employment and the nature of that [the] employment.*

Sec. 10. EMERGENCY WAIVER. (a) *If an unforeseen emergency causes a state agency to need the services of a private consultant in a time frame that makes compliance with all or part of this Act infeasible, then this section applies. This section applies regardless of whether the needed services necessitate a new contract or the renewal, amendment, or extension of an existing contract.*

(b) *The state agency shall request from the governor a limited waiver from the requirements of this Act. The governor may grant the limited waiver only after the agency has provided information concerning the nature of the emergency, the reason that the emergency was unforeseen, the identity of the private consultant with whom the agency wishes to contract, the amount of the proposed contract, and the other information the governor deems necessary.*

(c) *For the purpose of this section, the term "unforeseen emergency" means a situation that suddenly and unexpectedly causes a state agency to need the services of a private consultant. The term includes, but is not limited to, the issuance of a court order, an actual or imminent natural disaster, and new state or federal legislation. An emergency is unforeseen only to the extent that a state agency was not negligent in foreseeing the occurrence of the emergency.*

(d) *As soon as possible after the governor grants a limited waiver to a state agency, the agency shall fulfill the requirements of this Act to the extent that those requirements are not made superfluous or ineffective by the governor's limited waiver. The notice published in the Texas Register shall contain a detailed description of the emergency that necessitated the governor's temporary waiver.*

(e) *The governor shall adopt rules for the efficient administration of this section.*

Sec. 11 [6C]. **CONTRACT VOID.** (a) If a state agency contracts *for consulting services or renews, amends, or extends a consulting services contract* ~~[to use a private consultant]~~ without complying with the requirements of Sections 5 through 7, then ~~[Section 6 of this Act or if a person contracts to perform a consulting service for a state agency without complying with the requirements of Section 6B of this Act,]~~ the contract, renewal, amendment, or extension is void.

(b) If a private consultant contracts with a state agency without complying with the requirements of Section 9, then the contract is void.

(c) When a contract, renewal, amendment, or extension is void under this section,~~[,]~~

(1) the comptroller of public accounts may not draw a warrant or transmit funds to satisfy an obligation under the contract, renewal, amendment, or extension; and

(2) ~~[or]~~ a state agency may not make any payments under the contract, renewal, amendment, or extension from any state or federal funds held in or outside the state treasury until the state agency has complied with Sections 5 through 7 of this Act ~~[State Treasury]~~.

Sec. 12. **DIVIDING CONTRACTS.** A state agency may not divide a consulting services contract or a renewal, amendment, or extension of a consulting services contract into more than one contract, renewal, amendment, or extension in order to avoid the requirements of this Act.

Sec. 13. **ARCHIVES.** (a) After a state agency's contract with a private consultant has ended, the state agency shall, upon request, supply the Legislative Budget Board and the governor's Budget and Planning Office with copies of all documents, films, recordings, or reports developed by the private consultant.

(b) Copies of all documents, films, recordings, or reports developed by the private consultant shall be filed with the Texas State Library and shall be retained by the library for at least five years after receipt.

(c) The Texas State Library shall compile a list of documents, films, recordings, and reports submitted to it under Subsection (b) and shall file the list at the end of each calendar quarter with the secretary of state for publication in the Texas Register.

Sec. 14. **REPORTS.** As part of the biennial budgetary hearing process conducted by the Legislative Budget Board and the governor's Budget and Planning Office, a state agency shall supply the Legislative Budget Board and the governor's Budget and Planning Office with reports on what action was taken in response to the recommendations of any private consultant employed by the state agency during the previous biennium.

Sec. 15. **MIXED CONTRACTS.** If a contract involves both consulting services and other types of services, then this Act applies if the primary objective of the contract is the purchase of consulting services.

Sec. 16 [6D]. **LEGISLATIVE INTENT.** (a) It is the intent of the legislature that this Act be interpreted in a manner that ensures:

(1) ~~[assures]~~ the greatest and fairest ~~[fair]~~ competition in the selection by state agencies ~~[and regional councils of government]~~ of private consultants; ~~[under contracts covered by this Act]~~ and

(2) ~~[that assures]~~ that all potential private consultants ~~[providers of consulting services]~~ are afforded notice of the need for and opportunity to provide consulting ~~[the]~~ services.

(b) This Act is not intended to discourage ~~[the use by]~~ state agencies *from using* ~~[or regional councils of government of]~~ private consultants if *the agencies reasonably foresee* their use ~~will~~ ~~[may reasonably be expected to]~~ result in a more efficient and less costly operation or project. This Act is not intended to prohibit the letting of a sole-source contract for consulting services if no proposal is received from a competent, knowledgeable, and qualified private consultant at a reasonable fee, after the procedures set forth in this Act have been followed.

(c) This Act neither requires nor prohibits the use of competitive bidding procedures to purchase consulting services.

Sec. 17. COMPTROLLER'S RULES. *(a) The comptroller shall adopt rules for the efficient and effective implementation and administration of this Act. The comptroller's rules may not conflict with or cover the same subject matter concerning which this Act authorizes the governor to adopt rules.*

(b) The comptroller shall submit proposed rules under this Act to the governor and to the General Services Commission for review and comment before adopting the rules.

Sec. 18. PROCUREMENT THROUGH GENERAL SERVICES COMMISSION. *(a) At the request of a state agency, the General Services Commission shall procure services that are covered by this article for the agency.*

(b) The commission may require reimbursement for the costs it incurs when it performs a service under this section.

SECTION 5.08. Section 3.024, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), and (d) to read as follows:

(a) The commission, with the concurrence of the Department of Information Resources, may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of any telecommunications devices, systems, or services, or any automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers on which they are automated, including computer software, awarded to a vendor by a state agency covered by the Information Resources Management Act (Article 4413(32j), Vernon's Texas Civil Statutes). The commission and the Department of Information Resources must agree to the wording of any preapproved terms and conditions negotiated with a vendor.

(b) Preapproved terms and conditions to which a vendor, [and] the commission, and the department agree are valid for two years after the date of that agreement, and must provide that they shall be renegotiated before the expiration of two years. The commission and the department jointly shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

(d) The commission and the department jointly shall establish procedures to notify state agencies and potential vendors of the provisions of this section.

SECTION 5.09. Section 5.34(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) If a legislative Act has permitted the issuance of bonds by the Texas Public Finance Authority or the Texas Public Building Authority to construct one or more buildings and improvements in a county, the commission may solicit and receive proposals, using the same procedures applicable to the purchase of other real property, for the purchase of one or more existing buildings with bond proceeds. If evaluation of the proposals by the commission demonstrates that purchase of one or more existing buildings would be an appropriate and financially advantageous means of meeting all or part of the state's office space needs in that county, the commission shall certify that fact to the appropriate authority and request the authority to issue all or any portion of its bonds previously authorized by the legislature for that purpose.

The determination of financial advantage shall be made after the commission has compared construction and purchase as fairly as possible considering such factors and imputing value as the commission considers appropriate, including but not limited to consideration of the following factors:

- (1) the estimated cost of construction and of acquiring land for the construction;*
- (2) the anticipated purchase price for one or more existing buildings;*
- (3) the estimated costs of converting one or more existing buildings to state building specifications, including reconstruction costs only when reconstruction is necessary;*

- (4) the efficiency and suitability of an existing building's space as configured for the state's use;
- (5) the estimated occupancy dates for proposed construction versus an existing building;
- (6) the value of an existing building's location, parking, landscaping, and other enhancements;
- (7) the remaining useful life of mechanical components of an existing building; and
- (8) the estimated cost of maintenance and operations, *including telecommunications services*, for each option considered by the commission.

SECTION 5.10. Section 5.35(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The commission shall establish and maintain a six-year capital planning cycle and shall report biennially a master facilities plan. The plan and each update must be filed with the Governor's Office of Budget and Planning and with the Legislative Budget Board before July 1 of each even-numbered year. The plan must contain:

- (1) a projection of the amount of space that state agencies will need;
- (2) an examination of the utilization, age, condition, and economic life of state-owned buildings on the inventory of the commission;
- (3) an analysis, in accordance with Section 5.16 of this Act, of the projects which have been requested by state agencies;
- (4) an examination of the extent to which the state satisfies its need for space by leasing building space;
- (5) an examination of the state-paid operation and maintenance costs, *including telecommunications services*, for existing buildings owned or leased by the state;
- (6) a discussion of the economic and market conditions affecting the costs of the construction or lease of buildings;
- (7) an analysis of whether the state will benefit more from satisfying its needs for space by engaging in new projects, by leasing built space, or by satisfying its needs in some other manner; and
- (8) other information relevant to the long-range plan and either considered appropriate by the commission or requested in writing by the governor or the presiding officer of either house of the legislature.

SECTION 5.11. Section 6.05(d), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) When competitive bidding is used, the commission shall take into consideration moving costs, the cost of time lost in moving, and other factors, *including the cost of telecommunications services*, in determining the lowest and best bid.

The commission shall forward copies of all bids received to the leasing agency along with the commission's recommended award. If, after review of the bids and evaluation of all factors involved, the leasing agency determines that the bid selected by the commission is not in its opinion the lowest and best bid, it may file with the commission a written recommendation, complete with justification and full explanation of all factors considered in arriving at the recommendation, that the award be made to a bidder other than the commission's recommended bidder.

The commission shall give full consideration to the agency recommendation and if it does not agree with the agency recommendation, it shall notify the agency in writing. The agency and the commission shall attempt to reach an agreement on the award.

If agreement is not reached within 30 days, all bids and pertinent documents shall be transmitted to the governor who shall designate the bidder to which the award shall be made.

PART 6. REPEALER

SECTION 6.01. (a) Section 3.27, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is repealed.

(b) Section 6.051(b), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as added by Section 4, Chapter 779, Acts of the 71st Legislature, Regular Session, 1989, is repealed.

(c) Article 99, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is repealed.

(d) Article 8, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is repealed on certification by the comptroller of the implementation of the fixed asset component of the uniform statewide accounting system.

(e) Section 14.05, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is repealed.

PART 7. TRANSITIONAL MATTERS

SECTION 7.01. (a) As soon as possible after *the effective date of this Act*, the governor shall appoint three new members to the General Services Commission to achieve a six-member commission. The governor shall appoint one new member to a term expiring January 31, 1993, one new member to a term expiring January 31, 1995, and one new member to a term expiring January 31, 1997.

(b) Until all appointees have taken office, a quorum of the commission is a majority of the number of members who have taken office.

(c) Sections 2.051 and 2.061, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as added by this Act, do not apply to a person who is a member of the commission immediately before the effective date of this Act during the term the person is serving at that time.

SECTION 7.02. (a) To the extent appropriate, the General Services Commission shall exhaust its supplies of forms, publications, documents, and other consumable property bearing its former name before using new consumable property bearing the name "General Services Commission."

(b) The first policy statement required to be filed under Section 2.06(j), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as added by this Act, must be filed before December 1, 1991.

(c) The change in law to Section 5.20(c), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), made by this Act that relates to allowing bidders at least 30 days to respond to an invitation to bid, and the change in law to Section 5.22(b), State Purchasing and General Services Act, made by this Act that relates to allowing each private architect/engineer at least 30 days to prepare for an interview, apply only in relation to a contract for which the commission issues bid documents on or after the effective date of this Act.

(d) The General Services Commission is required to identify only one of its own commercial activities for competitive cost review under Section 13.03, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), as amended by this Act, for the biennium ending August 31, 1993.

SECTION 7.03. (a) The school bus revolving fund formerly established under Section 21.180, Education Code, is abolished subject to the satisfaction of any valid outstanding obligations against the fund. The General Services Commission shall transfer any money remaining in the fund after the satisfaction of all valid outstanding obligations against the fund to the state treasury for deposit in the general revenue fund. The commission shall transfer any money received by the commission after the date the fund was abolished that was owed to the fund before the date the fund was abolished to the state treasury for deposit in the general revenue fund.

(b) The changes in law made by this Act relating to a contract for the lease of one or more school buses under Section 21.182, Education Code, and other law apply only to a

contract made on or after the effective date of this Act except that the reporting requirements added to Section 21.182(h), Education Code, by this Act apply according to their terms to any contract under Section 21.182. Otherwise, a contract for the lease of one or more school buses that was made under Section 21.182, Education Code, before the effective date of this Act is governed by the law relating to a contract for the lease of one or more school buses by a county or local district school board in effect on the date that the contract was made, and that law is continued in effect for this purpose.

SECTION 7.04. (a) The changes in law made by Part 4 of this Act relating to the dissemination of information about the architectural barriers program, the setting and collecting of fees to recover program costs, and the transfer of that program from the General Services Commission to the Texas Department of Licensing and Regulation apply beginning on the effective date of this Act. All other changes in law made by Part 4 of this Act relating to the architectural barriers program do not apply until January 1, 1992, and until that date the former law governs the program and is continued in effect for this purpose.

(b) On the effective date of this Act all powers, duties, and obligations relating to the architectural barriers program are transferred from the General Services Commission to the Texas Department of Licensing and Regulation as provided by this Act. All records and property in the custody of the commission that relate to the program are transferred to the department. All appropriations to the commission for the operation of the program and all employees of the commission employed to operate the program are transferred to the department. All investigations and all filed complaints relating to the program are transferred without change in status from the commission to the department. All commission rules, standards, and specifications relating to the program remain in effect as department rules, standards, and specifications unless superseded by proper authority of the department.

(c) A privately financed building that was constructed on or after January 1, 1978, but before January 1, 1992, and that was covered under the architectural barriers law in effect immediately before the effective date of this Act (Article 7, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), and rules adopted under that law) remains subject to the prior architectural barriers law and rules until the building is substantially renovated, modified, or altered, and the prior law and rules are continued in effect for this purpose. The Texas Department of Licensing and Regulation shall enforce the prior law and rules under this section, and all enforcement mechanisms available to the department in its enforcement of the architectural barriers law and rules are available to the department in its enforcement of the prior law and rules under this section.

(d) The Texas Department of Licensing and Regulation shall by September 1, 1992, initiate proceedings under the Americans with Disabilities Act (ADA) of 1990 (P.L. 101-336) to become certified under that Act as the state agency delegated enforcement powers under the Act.

SECTION 7.05. (a) A contract that was made before the effective date of this Act to which Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes), applied is neither void nor voidable solely for a failure to comply with that law's requirements, if the contract was made in compliance with that law either as it was originally enacted in 1977 or as it was amended by Article 98, Chapter 773, Acts of the 66th Legislature, 1979.

(b) The changes in law made by Part 5 of this Act relating to consulting, professional, and routine services apply only to a contract or a contract extension, amendment, or renewal made on or after the effective date of this Act. A contract relating to those services that was made before the effective date of this Act is governed by the law in effect at the time the contract was made, except for matters relating to an extension, amendment, or renewal of such a contract on or after the effective date of this Act, and the prior law is continued in effect for this purpose.

SECTION 7.06. The changes made by Subchapter L, Chapter 403, Government Code, as added by this Act, take effect on certification by the comptroller of the implementation of the fixed asset component of the uniform statewide accounting system.

SECTION 7.07. Contingent upon enactment of legislation transferring the Elimination of Architectural Barriers activity out of the State Purchasing and General Services Commission (SPGSC) to the Department of Licensing and Regulation, funds appropriated above for that activity, in the amounts of \$205,646 in general revenue and \$5,000 in other funds in fiscal year 1992 and \$203,111 in general revenue and \$5,000 in other funds in fiscal year 1993, shall be transferred to the Department of Licensing and Regulation. In the event that such legislation is not enacted, the same amounts are appropriated above to the SPGSC or its successor agency for operation of the activity. In addition to the appropriations made above, all fees collected through the architectural barriers activity are hereby appropriated to the department for purposes of administering and enforcing the architectural barriers law.

SECTION 7.08. (a) The amounts appropriated by House Bill No. 1, Acts of the 72nd Legislature, 1st Called Session, 1991 (the General Appropriations Act), to the State Purchasing and General Services Commission for the fiscal year ending August 31, 1993, and made contingent appropriations by Rider 26., page I-228, of that Act are, notwithstanding Rider 26., appropriated for the fiscal year ending August 31, 1993, to the General Services Commission from the funds and for the purposes for which the amounts were appropriated by House Bill No. 1.

(b) The position of executive director is an exempt position for the General Services Commission, at an annual rate of \$69,300, for each of the fiscal years of the fiscal biennium ending August 31, 1993.

(c) All riders and other conditions made applicable by House Bill No. 1, Acts of the 72nd Legislature, 1st Called Session, 1991, to the expenditure of appropriations by the State Purchasing and General Services Commission apply to the appropriations made by this section and to the exempt position provided by this section.

PART 8. EFFECTIVE DATE; EMERGENCY CLAUSE

SECTION 8.01. This Act takes effect September 1, 1991.

SECTION 8.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed by the House on August 23, 1991: Yeas 110, Nays 3; the House concurred in Senate amendments to H.B. No. 39 on August 25, 1991: Yeas 127, Nays 0, 2 present, not voting; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas; passed by the Senate, with amendments, on August 25, 1991: Yeas 21, Nays 10; passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Approved August 29, 1991.

Effective September 1, 1991.

CHAPTER 9

H.B. No. 64

AN ACT

relating to the appropriation and allocation of bonded construction funds to the Texas Department of Mental Health and Mental Retardation and the Texas Youth Commission and to special provisions governing appropriations made by the General Appropriations Act to those agencies and the Texas Department of Health.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. GENERAL OBLIGATION BONDS FOR YOUTH CORRECTIONS. Section 4, Chapter 696, Acts of the 70th Legislature, Regular Session, 1987 (Article 601d-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows: